Commercial Law - Selling your business? Consider the PPSR

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Selling your business can be both exciting and stressful at the same time. Once a purchaser is found the parties usually move as quickly as possible to exchange.

An area often overlooked by vendors is taking time to consider what security registrations under the Personal Properties Securities Act 2009 (PPSA) may exist encumbering vehicles, stock or plant and equipment included in the business sale.

Under the most recent Contract for Sale of Business 2015 edition, a standard clause is included requiring a vendor to provide a release of each security interest (or such other statements or documents confirming the security interest does not apply to assets being sold).

Often vendors believe the plant and equipment in their business is unencumbered and it can be quite a surprise to receive a PPSA search showing security registrations do exist despite the vendor not owing any money on the particular asset. It is then necessary to contact the secured party and request a Financing Change Statement (release) which, depending upon the secured party, can take days or often even longer. This can result in delays in completion and an unhappy purchaser.

A search of the PPS register is inexpensive and by obtaining the search as soon as possible can prevent surprises and potentially costly delays.

If you require assistance with selling your business or a commercial lawyer, contact the Commercial Law team at Matthews Folbigg Lawyers as soon as possible.