

A modern house with dark wood cladding and a balcony, illuminated at dusk. The house features a mix of dark wood and light-colored brickwork. A balcony with a patterned railing is visible on the upper level. The sky is a mix of blue and orange, suggesting sunset or sunrise. The overall aesthetic is contemporary and sophisticated.

**BAYLEYS**

# Your Bayleys **tender guide**

[bayleys.co.nz](http://bayleys.co.nz)

# What is a **tender**?

A tender is a method of selling a property which requires all buyers to submit their sealed offers to the seller - through the seller's agent - by a set date.



## Selling by **tender**

### **Should I consider selling by tender?**

Your Bayleys sales consultant may recommend selling by tender on the basis that this process imposes a time limit on buyers. This may create a sense of urgency and competition for buyers, and may therefore result in a quicker sale or better price.

Buyers may also be prepared to limit the conditions that they attach to their offer in a competitive situation.

A tender will not guarantee that your property sells - this will depend on a range of factors, including the state of the market, and how attractive your property is to buyers compared with other similar properties. If a tender does not result in a sale, you can consider other selling methods.

### **Do I need to have an agency agreement?**

Yes, you do. This will be a sole agency agreement (not a general agency) as the process needs to be run through a single agent. During the period of the tender, you cannot sell the property by any other method.

### **How does the process work?**

When a property is advertised by tender, there is a set period during which potential buyers can inspect the property and submit their sealed offers. Properties offered by tender are generally advertised on the basis of "not selling prior". This means that buyers must submit their offers along with all other buyers, and the seller will not negotiate with any buyer before the closing date.

Properties sold by tender are advertised without a price although sometimes advertising will include the rating valuation (RV).

The tender can call for either unconditional offers only, or allow conditional offers. A tender that is confined to unconditional offers means that buyers must be in a position to conclude the sale if they are the successful bidder.

This means that they will have to have arranged finance in advance and taken any legal and technical advice they require. Unconditional offers provide the seller with more certainty that the sale will be concluded. However, accepting only unconditional offers does carry a risk that fewer offers will be made.

A tender that allows conditional offers may result in more offers. If your property is being marketed to overseas buyers, you will need to allow for conditional offers as overseas buyers may not be able to conclude a purchase without first getting approval from the Overseas Investment Office.

The agent or salesperson will make available to buyers the Particulars and Conditions of Sale by Tender that have been agreed by the seller. The agent is also required to give you the approved Guide to New Zealand Residential Property Sale and Purchase Agreements.

The offers are held securely and remain sealed until the tender closing date. The seller considers all of the offers once that date has been reached.

### **Do I have to accept the highest offer?**

No. You can accept any offer you wish. For example, a lower offer with fewer conditions may be more attractive as it gives you more certainty about a potential sale than a higher offer with more conditions. Before deciding, you should get advice from your lawyer. If you have a preferred offer, you may want to accept, or negotiate further with that buyer, through your agent. If none of the offers are satisfactory to you, you can reject them all and discuss other selling methods with your sales consultant.

*Buying by tender is when prospective buyers prepare and submit confidential written offers for a property to the agent for the seller's consideration within a set time frame.*





## What should I think about when **submitting an offer?**

Buying at tender requires the same care and research as buying by any other method. You should ensure you carefully read the Particulars and Conditions of Sale by Tender that the agent must give you. You should also take advice from your lawyer before finalising your offer.

When submitting your offer you will generally be required to include a deposit of a specified amount. This will be held in a trust account and returned to you if your bid is not accepted.

If the tender calls for unconditional offers only, you will need to ensure that you have arranged any finance you need, obtained a Land Information Memorandum (LIM), building inspection report, or other information that you need, before you submit your offer. If you have submitted an unconditional offer and you are the successful bidder, you will not be able to impose any conditions or change the offer subsequently.



## Will other buyers know what **I have offered?**

No. Unlike an auction, which is a public process, tenders protect the privacy of the bidders. You submit your sealed offer to the seller's agent, who is required to hold it securely

until the closing date. The only people who will see your offer are the seller and agent after the tender closing date and time.



## Frequently asked **questions**

### **If I would like to submit a tender what documentation do I need?**

Once you have decided that you would like to submit a tender please ask the salesperson who is conducting the tender to provide you with the tender documents (these will normally consist of an Agreement for Sale and Purchase by Tender, a copy of the Certificate of Title, and further property details).

### **Do I need to inform my solicitor?**

You should then decide the terms of the tender you wish to submit. The information you require will include your full particulars as purchaser, the amount tendered, the possession date, any conditions, and your solicitor's details.

### **What price do I have to pay to buy the property?**

This is the price you are prepared to pay. Generally, your price will be established by what property has sold and is currently listed around the area, and also the particular features that the home offers you. It is essential that you submit your very best price.

### **What are the terms for sale?**

The agreement for sale and purchase by tender should be completed in duplicate, signed and forwarded with a deposit (normally 10% of the tendered purchase price). All

cheques must be crossed and made payable to Bayleys Trust Account. No cheques will be banked unless you are the successful tenderer in which case the deposit shall form part payment of the agreed purchase price.

### **Can I submit a tender if I still have to arrange finance?**

Yes, you can organise - through your bank or mortgage broker - approval to tender up to a price that you are prepared to pay. The tender would be subject to the bank's valuation. This is easy to organise and only takes a short time.

### **What do I do with my completed Tender documents?**

Once you have completed your tender it should be placed in a sealed envelope with the address of the property written on it, and delivered to the Bayleys address specified and it will be held in a locked tender box at reception until tender closure. Please include a contact address and telephone number for the purposes of notifying you of the results of the Tender.

### **What happens next?**

It is stressed that the vendor does not have to accept any Tender, remember that in a tender situation, as opposed to an auction, tenders may be conditional upon certain criteria, i.e. finance, the sale of other property etc. (although a vendor will often favour an unconditional tender).



The tender shall be decided and all prospective purchasers notified of the outcome normally within 5 days of the tender closing date. All unsuccessful tenders shall be returned together with the deposits.

**If you require any assistance with the preparation of the tender documents or have any question regarding the property for sale, please contact your local Bayleys sales consultant.**

