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Buying by tender

When a property is for sale by tender, buyers give confidential written offers to the agent before a specified end date.

Summary of important things to know

- ✓ Offers made on a property for sale by tender are usually opened after the tender deadline. However, the property can be sold before the deadline if the seller decides to accept offers earlier. The marketing should include a phrase like "unless sold prior" if the seller might accept offers early.
- ✓ Prospective buyers should register their interest with the agent and ask to be informed if someone else makes an offer before the deadline, or if the closing date or time is changed, to give them the best chance of making an offer.
- ✓ There may be a price indication from the seller. Buyers can choose to offer more or less than the amount indicated.
- ✓ Prospective buyers can attach conditions to their offer, for example, making the offer subject to a property inspection report, a valuation, approved finance or selling another property.
- ✓ Sellers can attach terms and conditions to the sale such as specifying the settlement date and which chattels will be included.
- ✓ If a prospective buyer doesn't meet the conditions of the offer or needs more time to meet the conditions, they need to talk to their lawyer or conveyancer and the real estate agent as soon as possible.
- ✓

A deposit is usually provided with your tender offer. Prospective buyers should check the settlement date and make sure they have all their finances and other arrangements in place for then. If the offer is accepted, the remainder of the purchase price is due on settlement day (when the property is scheduled to change ownership).

Identifying properties for sale by tender

The property will be listed for sale by tender. Usually, this means that a prospective buyer will make a written offer by a set deadline. Once the deadline has passed, offers will be considered by the seller who may accept or reject them or may negotiate further with a prospective buyer.

Sometimes, the advertising and tender document will include the words "unless sold prior" or there may be other conditions that mean the property might be sold before the tender deadline. Similarly, the seller may be able to change the tender deadline. It's important to register your interest with the agent if you think you want to make an offer, so they can let you know if anything changes.

Researching the property

Before you make an offer, learn as much as you can about the property and ask your lawyer or conveyancer to review and help you understand any reports you get.

- Work out the value of the property.
- Do a title search.
- Get council information.
- Check the house and land thoroughly.
- Get a property inspection report.

Learn more about researching the property [here \(/buying-a-home/researching-the-property/\)](/buying-a-home/researching-the-property/).

Confirming your finances

Make sure your finances are in order before you make an offer. You will need to provide a deposit when you make your offer, usually around 10% of your offer price, which you can arrange through an electronic funds transfer. Your deposit will be returned if your tender offer isn't successful.

Your lender may want to know specific details about the property before you make an offer, even if you have pre-approved lending.

Making an offer

Your offer must be in writing on a tender document, which is a type of sale and purchase agreement. The tender document will provide details about how to make the offer, for example, it is common for the offer to be presented in a sealed envelope. If you have any questions about how to make a tender offer, or the tender process, speak to your agent, lawyer or conveyancer.

You can request the tender document from the agent or ask your lawyer or conveyancer to prepare it for you. If the agent arranges your tender document, it is a good idea to have your lawyer or conveyance review it to help you understand what you are agreeing to.

See a [lawyer or conveyancer \(/buying-a-home/thinking-of-buying/building-your-support-team-when-buying/\)](/buying-a-home/thinking-of-buying/building-your-support-team-when-buying/) early to help you through the tender and settlement processes.

Learn more about the sale and purchase agreement [here \(/buying-a-home/making-a-n-offer/understanding-the-sale-and-purchase-agreement-when-buying/\)](/buying-a-home/making-a-n-offer/understanding-the-sale-and-purchase-agreement-when-buying/).

Deciding what kind of offer to make

You can choose to make either an unconditional or conditional offer on the property.

An unconditional offer means you have no conditions on the price you offer. Unconditional offers are generally favoured by the seller, especially if there are competing offers.

A conditional offer means you have conditions that you want met before you agree to complete the purchase of the property. Conditions could include making your offer subject to getting a building inspection or valuation, confirming your financial arrangements or selling your own property.

The seller can also attach conditions to the sale such as stating the settlement date or listing the details of the chattels (for example, stove, fixed floor coverings, blinds, curtains and light fittings) that come with the house.

Checking the tender document

The tender document is a legally binding contract. We recommend you ask your lawyer or conveyancer to review the tender document and make sure you understand all the terms of the sale before you sign it.

Waiting for the seller to consider the offers

The agent will collect all the offers and present them to the seller. The seller usually has up to 5 working days to decide which offer, if any, they will accept.

Be careful when deciding whether to submit any offers for other properties while you wait to hear back from the agent. If both offers are accepted, you might end up with agreements to buy two properties.

The seller doesn't have to accept any of the offers. If your offer is rejected, you don't have to continue with the sale process, and you're free to look at other properties.

Negotiating with the seller

The seller may ask you to change the price and/or conditions in your tender offer. If this happens, the agent will ask you and the seller to initial any changes (amendments) to show you both agree with them. Read any changes first, and make sure you understand and agree with them before initialling the changes.

You don't have to accept any changes you do not agree with. Your lawyer or conveyancer can advise you during this process and should check the final agreement before you sign it.

The seller may also simply accept the offer you put forward without asking for any changes and will sign the sale and purchase agreement.

Completing the sale process

Working through conditions

If you have added conditions to the tender offer, such as arranging finance or getting the property checked by an expert, you will have to complete these before a date agreed with the seller (as set out in the sale and purchase agreement). It's a good idea to get things moving as quickly as possible because, if you don't meet the conditions by the agreed date, the seller may be entitled to cancel the agreement or you may be deemed not to have satisfied the conditions.

If you need to have finance approved, your bank or lender will ask for a copy of the sale and purchase agreement. They may also require a valuation, which you will need to organise and pay for.

When all the conditions have been met, the sale becomes unconditional.

If you need an extension to complete any conditions, you must speak to your lawyer or conveyancer, who will negotiate with the seller through the seller's lawyer or conveyancer. Any changes will need to be added to the sale and purchase agreement and signed off by you and the seller.

What if something goes wrong after your offer is accepted?

If there is a problem meeting the conditions of the sale, such as your finance arrangements falling through or you are unhappy with the results of a property inspection report, and you want to withdraw from the sale, you must let your lawyer or conveyancer know as soon as possible. They will contact the seller's lawyer or conveyancer. Remember, this can only occur if you have stipulated these conditions in the sale and purchase agreement.

If all the conditions have been met and the agreement is unconditional but you fail to complete the sale, you may lose your deposit, be taken to court or be penalised by the seller. You can consider adding a condition to the sale and purchase agreement that you will pay the deposit when the sale is unconditional.

Pay the agreed amount by settlement date

You must pay the remaining amount agreed for the property on the settlement date. You usually pay the remaining amount through your lawyer or conveyancer, and on settlement day, you will be given the keys to the property.

Learn more about settling and moving in [here \(/buying-a-home/settling-and-moving-in/planning-for-settlement-day-when-buying/\)](/buying-a-home/settling-and-moving-in/planning-for-settlement-day-when-buying/) .

What to do if you have a problem

If you have a problem with a real estate agent that you can't resolve directly with them, find out how the Real Estate Authority (REA) can help you on the [REA website \(https://www.rea.govt.nz/make-a-complaint/\)](https://www.rea.govt.nz/make-a-complaint/) .

There are other steps you can take and organisations that can help you when you need it. Find out more about getting help if things go wrong [here \(/buying-a-home/settling-and-moving-in/getting-help-if-things-go-wrong-when-buying/\)](/buying-a-home/settling-and-moving-in/getting-help-if-things-go-wrong-when-buying/) .

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