

Homeowner's Guide: Information to help Canterbury homeowners

The information in this document is for Canterbury homeowners who have applied, and been advised they are eligible, for ex gratia payments from the Government's On-sold support package.

It covers all the important things you need to do, including selecting a licensed builder and any other specialists you need; getting damage assessments and quotes; and ensuring repairs are completed to the standards of the Earthquake Commission Act 1993 (the Act).

There's also information about the process and timelines for settlement offers and ex gratia payments.

We know this work is important to homeowners and it's important to us, too.

We want to see earthquake damage to properties repaired as soon as possible so Cantabrians don't continue to live in earthquake-damaged homes.

We're here to help you. Please read this pack carefully and if you have any questions, contact your EQC Toka Tū Ake settlement specialist.

Ex gratia payments explained

An ex gratia payment is not an insurance payment or entitlement. It is a payment that is made without legal obligation or acceptance of liability.

Coordinating your scope of repairs

Under the terms of the On-sold support package, you're responsible for engaging your own contractors to carry out repairs to your home, and for working with your builder to make sure those repairs are completed properly.

It's important you hire qualified experts, such as structural and geotechnical engineers, builders and architects, who can help you gather the information you need. Make sure you're comfortable with the people you engage and confident they will provide the right information for your situation.

If you feel unable to oversee this process yourself or would like professional advice, we recommend you engage an independent project manager to support you. Please talk to your settlement specialist about your circumstances and options.

Finding a licensed building practitioner

One of the first things you'll need to do is choose a licensed building practitioner (builder) with the skills and expertise to identify earthquake damage and complete repairs on your home. They'll do the repairs, manage the process, and ensure repairs are completed properly.

Licensed building practitioners have been assessed by the Ministry of Business, Innovation and Employment (MBIE) as competent to carry out building work essential to the structure of residential buildings. A good place to find one is the [Licensed Building Practitioners \(LBPs\) website](#)¹.

Your builder will:

- assess the earthquake damage to your property, propose an appropriate repair strategy (in conjunction with advice from your structural engineer, if required) and provide a detailed quote to complete those repairs
- lead the repair work on your property
- manage any necessary specialists or sub-contractors (such as engineers, electricians and plumbers) on your behalf, making sure they have relevant qualifications and current licences (e.g. trade qualifications for electricians, gas fitters and plumbers)
- sign off the completed work.

If you're unsure if a particular builder is right for you, we recommend you ask them for references and talk with previous clients about what they were like to work with and the quality of their work.

We also recommend you ask your builder about the sub-contractors they'll be engaging and double-check they have the relevant qualifications.

Getting your property assessed

Repairs must bring your home up to the standards of the EQC Act. This means replacing or reinstating property to a condition substantially the same as, but not better or more extensive than, its condition when it was new. These repairs also need to comply with any current building legislation. To determine the repairs needed to bring your home up to the standards of the Act, and the cost of those repairs, you'll need to provide us with an assessment from your builder.

Your builder may indicate you also need an expert report(s) from a specialist, such as a structural or geotechnical engineer, as part of your damage assessment. If this is the case, you'll need to engage a qualified expert to compile this.

¹ www.lbp.govt.nz

Engineering New Zealand's website² has useful information on choosing an engineer, plus a template for engaging an engineer, and the professional standards expected when assessing earthquake damage.

Information we need to receive

Here's what your builder should include in their assessment and quote(s):

- Assessments and quote(s) should clearly state what their content is based on. This includes inspections and assessments that have been done, when and by who, as well as other supporting information, any assumptions and clarifications.
- Elements and rooms should be separated. All items being repaired should be clearly defined with transparent descriptions and measurements.
- Large structural elements should be priced in detail and include adequate descriptions and measurements. They should be specific to the scope of work, engineer's report (if relevant) and site conditions.
- Ensure your builder includes details about what all costs relate to. Quoted items with no detail other than a general heading (e.g. 'general requirements') and a cost will not be acceptable.
- Sub-contractor quotes: any sub-contractor quotes should also be itemised and included in the main builder's quote for all repairs.
- Professional fee costs should be individual and transparent. These should not be grouped together as a lump sum (e.g. there should be separate costs for engineering design, building consents, construction monitoring).

Ensuring your builder's quote(s) includes all these things will help avoid delays in our initial assessment and settlement, as well as the potential for variation requests and construction delays.

The reasonable cost of specialist reports needed to determine the repair strategy for your home will be covered under the On-sold support package. This includes reports such as:

- structural engineering
- geotechnical engineering
- roofing
- drainage
- asbestos
- cladding

² <https://www.engineeringnz.org/public-tools/new-zealand-claims-resolution-service/engaging-engineer/>

If we already have information from you on file, including assessments for the earthquake damage, repair costs and specialist reports, we may be able to progress to settlement sooner, following a discussion with you to agree on the extent and cost to repair the earthquake damage.

The On-sold support package has an option for co-funding. If you're looking to undertake any owner's works or extra renovations in addition to your repair, this should also be specified, but separated in your builder's (and any other professional's) quotes. Please discuss any co-funding with your settlement specialist to understand what this may mean for your settlement. You can also find more information in our **Additional Works** fact sheet.

Settlements

Reaching a settlement

Once you've provided the information from your builder and other experts, your settlement specialist will review it and make time to talk you through the process for settling your claim. This will include a walk-through of your property with your builder and any other experts that might be required to agree the scope of work.

We want to agree a settlement with you as soon as possible, so we need to receive your builder's assessment and quote(s), and any specialist reports, **within five months** of confirming your eligibility for the On-sold programme.

Stalled or inactive applications may be closed, so please tell your settlement specialist if you're unable to get this information to us within five months. Your settlement specialist will contact you about once a month for an update on your progress, but you can also contact them any time you need to.

Once the scope of works has been agreed, your builder will arrange for any design and consent preparation work to take place. They can submit their quote(s) to us for review once the building consent (or exemption) application has been made.

Your settlement specialist and our quantity surveyor will review your quote(s), and may have some questions for your builder. We'll send these to you to discuss with your builder or organise a time to discuss them with you and your builder together.

Your settlement offer

Once we've reviewed your builder's quote(s) and any information you provide around temporary accommodation, storage requirements and costs, we'll send your settlement offer within 30 working days.

This offer will include a detailed breakdown of the costs included in your settlement, a Settlement Deed, a Statutory Declaration and documentation for an encumbrance to be placed over the title of your property, if required.

The Settlement Deed provides the details of the earthquake repairs to your property that must be completed (agreed works), and the Statutory Declaration confirms that you will use the ex gratia payment to do those repairs. The Statutory Declaration also means that you will have a legal obligation to complete the repairs even if your circumstances change.

The On-sold support package only covers the works required to repair missed earthquake damage. If you wish to make additional improvements to your property at the same time, or you prefer to use your settlement to rebuild rather than repair, you must pay the extra costs yourself. If you choose to rebuild or undertake additional renovations, this should be discussed with your settlement specialist, as variations may not be payable. The On-sold support package is for repairs or reinstatement of **residential property only**.

When you receive your settlement offer, please take time to review the information provided, seek legal advice, and return your signed settlement deed as soon as possible.

As always, our team will continue to support you through this process and be available to answer your questions.

Ex gratia payments are payable to you as the On-sold applicant and homeowner of the property. You must remain the homeowner of the property throughout the settlement and repair process to be eligible to receive an ex gratia payment. Should you wish to sell your property prior to completing the repairs, please contact your settlement specialist to understand what this might mean for you.

Settlements over \$150,000 (placing an encumbrance on the Record of Title)

If your On-sold ex gratia payment is more than \$150,000, an encumbrance will be registered on the Record of Title with Toitū Te Whenua Land Information New Zealand (LINZ). An encumbrance is a claim registered against the title of your property. It means anyone who requests a copy of the property's title from LINZ will see that there is an encumbrance registered and will know earthquake repairs have not yet been completed.

An encumbrance may also apply where cost increases or a variation to your agreed works pushes you over the \$150,000 threshold. If that happens, we'll provide you with a variation to your Settlement Deed to reflect this.

The encumbrance will be removed once the agreed repairs have been completed and you've sent us the documentation confirming this. This documentation includes Producer Statements signed by your builder and other experts engaged in the repairs, such as structural engineers, electricians and plumbers. These statements confirm work has been done in line with the design specifications and agreed works. Where the works require a building consent, the documentation will also need to include a Code of Compliance Certificate.

You'll need to instruct your own lawyer to manage the process for registering and removing the encumbrance with LINZ. We'll cover the reasonable legal costs for registering and removing the encumbrance as part of the settlement payment.

For more information about an encumbrance, please see the **On-sold Encumbrance Removal Checklist**.

Your local council's property file

We'll provide details of the agreed scope of works for your repairs to your local Council. This will be held as part of your local Council's file for the property.

Information we need to pay you

You'll need to give your settlement specialist the following information so that we can pay you correctly:

- A pre-printed bank deposit slip with your account name and number; or
- A bank statement showing your account name and number.

For tax purposes, we need to confirm whether you are GST registered for your residential property. GST may apply if you own your home as a company.

Receiving your payment

Payments will be administered in tranches depending on the value of the over-cap portion of the payment. These payments will be detailed in your settlement deed.

Any entitlement you have under the Act will be paid separately, in full within 10 working days of us receiving and acknowledging all completed documentation.

Obligations on your payment

- **Tax:** you may have GST obligations. If you do, or are unsure, please seek advice from a tax advisor.
- **Your bank:** because this is an ex gratia payment, we're not obliged to pay your mortgagee, but you might have some obligations with your bank and we recommend that you talk to them. You'll need to share the details of the repair or rebuild contract with them so that they know when they'll need to release any funds currently sitting against your mortgage.

Completing your repairs

It's important that you keep us aware of key information, such as project timeframes, so that we can continue supporting your repair progress.

Once you have received your approved consent documentation from your local council, please provide this to your claim manager, along with the intended start date of your project.

This date will need to be re-confirmed once your project has started. It should be within 12 months of the date of your Settlement Deed, and as soon as reasonably possible after receiving your first payment.

You are legally required to use your On-sold settlement to repair your home, as outlined in the settlement deed.

We want people to live in safe, healthy homes

All repairs must be completed in line with the agreed scope of work. They should also be completed as soon as reasonably possible following the signing of your Settlement Deed and Statutory Declaration.

We recommend you review your build contract and discuss key milestones, such as progress payments and key handovers, with your builder before the work starts. This is to ensure you both agree to the terms of these milestones.

All repairs must be completed to the standard required under the EQC Act . This means that repairs must replace or reinstate the building to a condition substantially the same as, but not better or more extensive than, its condition when it was new. Repairs must also comply with current building legislation.

You're responsible for working with your builder to make sure repairs are completed to this standard. You'll need to ensure you are satisfied with the quality of their work and that the repairs comply with council regulations and other laws.

If you have concerns

If you have concerns about the standard of work on your property, or any issues with your builder or other parties you've engaged, you'll need to raise your concerns with them directly. [The Licensed Building Practitioner](#)³ and [Building Performance](#)⁴ websites provide helpful guides on how to do this.

You can also find out more about consumer protection measures and how to ensure there are no surprises between you and your builder in the Ministry of Business, Innovation and Employment's (MBIE) booklet, **Know your rights - A homeowner's guide to the consumer protection measures when building or renovating** (see Useful resources).

Here are some things to keep in mind to protect yourself as a homeowner:

- Ensure you have a written contract with your builder so everyone understands their obligations, requirements and expectations.
- Before you sign a contract, ask your builder to give you information about their skills, qualifications, licensing status and the insurance or guarantees they provide (it's called a disclosure statement). Also ask for a checklist that outlines the stages of the build and how to protect yourself.
- Once the building work has been completed, your builder must give you certain information or documents related to the building work. These include ongoing maintenance requirements, guarantees or warranties, and any ongoing insurance policies.
- You have an automatic 12-month defect repair period when builders must fix any defects you've told them about in writing. Because the repair contract is between you and your builder, the On-sold support package does not cover you during this time.
- You can take action for up to 10 years if warranties in the Building Act have not been met, even if they're not in your contract (they're called implied warranties).
- Licensed builders can be fined if they don't comply with the law.

³ www.lbp.govt.govt.nz

⁴ www.building.govt.nz

Useful resources

- Visit the www.eqc.govt.nz/insurance-and-claims/canterbury-earthquake/on-sold-over-cap-properties/ section on the EQC Toka Tū Ake website for more information on the support package
- [Licensed Building Practitioners website](#): Licensed builders assessed as competent to carry out building work essential to the structure or weathertightness of residential buildings. Includes a directory of licensed building practitioners. Visit the website or call **0800 60 60 50**.
- [Building Performance website](#): Information from the Ministry of Business, Innovation and Employment (MBIE) around the building process, what to expect and how to manage a building project. Visit the website or call **0800 24 22 43**.
- [Know your rights booklet](#): Information from MBIE for homeowners and licensed building practitioners, outlining your rights and how to rebuild with confidence.
- [Engineering New Zealand's public tools](#): New Zealand's largest professional body of engineers has provided guidance, from finding an engineer to addressing concerns and specific consideration for earthquake repairs. Visit the website or call **04 473 9444**.
- Local Canterbury Councils: Environment Canterbury has a list of local councils in the Canterbury region www.ecan.govt.nz or call **0800 324 636**.

For more information

- Visit www.eqc.govt.nz
- Call 0800 DAMAGE (0800 326 243)
- Write to EQC Toka Tū Ake, info@eqc.govt.nz
or PO Box 311, Wellington, 6140

If English is not your first language and you need support to understand this document or you would like a translated version, please contact your settlement specialist.

