

INFORMATION TO HELP CANTERBURY HOMEOWNERS

Toka Tū Ake EQC has put together the information in this pack to help Canterbury homeowners who may be eligible for ex gratia payments from the Government's On-sold support package.

It covers all the important things homeowners need to do, including selecting a licensed building practitioner, experts and professionals you need to undertake the work required, getting damage assessments and quotes and ensuring repairs are done 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 payments¹.

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

It's about getting earthquake damage to properties repaired as soon as possible so Cantabrians do not continue to live in earthquake damaged homes.

Please read this pack carefully and if you have any questions, contact your Toka Tū Ake EQC settlement specialist.

Please note: the information in this pack applies only to homeowners who have applied for and been advised they are eligible for the Government's On-sold support package.

SECTION ONE: PREPARING SCOPE OF REPAIRS

Ensuring you have a team of people able to assist you with aspects of your application is important.

You need to be comfortable with the experts that you engage, such as structural and geotechnical engineers, licensed builders and architects.

Finding a licensed building practitioner

One of the first things you'll need to do is select a licensed building practitioner (**licensed builder**) with the skills and expertise to identify earthquake damage and complete repairs on your home. A good place to start is the Licensed Building Practitioners (LBPs) website².

LBPs have been assessed as competent to carry out building work essential to the structure of residential buildings.

Your licensed building practitioner will:

- Assess the earthquake damage to your property, propose an appropriate repair strategy (in conjunction with advice from your structural engineer) and provide a quote to complete those repairs;
- Lead the repair work on your property;
- Engage and manage any necessary specialists or sub-contractors (such as engineers, electricians and plumbers); and
- Sign off on the completed work.

¹ 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.

² www.lbp.govt.nz

If you're unsure if a licensed builder is right for you, we recommend asking for references and talking with previous clients about what the licensed builder was like to work with, as well as the quality of their work.

We also recommend asking your licensed builder about the sub-contractors they'll be engaging, and making sure all sub-contractors have relevant qualifications and current licences (e.g. trade qualifications for electricians, gas fitters and plumbers).

Getting your property assessed

Repairs must bring your home up to the standards of the Act. This means replacing or reinstating property to a condition substantially the same as – but not better or more extensive than – its condition when new, and must comply with any applicable laws.

You'll need to provide Toka Tū Ake EQC with an assessment from a licensed building practitioner (see previous section: *Finding a licensed building practitioner*).

This assessment will determine the repairs needed to bring your home up to the standards of the Act, and the cost of those repairs.

Your licensed builder may indicate you need a specialist engineer's (e.g. structural, geotechnical) report as part of your damage assessment. If so, you'll need to engage qualified experts to do that.

Engineering New Zealand's website³ has useful information on choosing an engineer, a template for engaging an engineer, as well as the professional standards expected when addressing earthquake damage.

The reasonable cost of any reports needed to determine the repair strategy for your home will be covered under the on-sold support package.

- **If we already have information from you on file**, including assessments for the earthquake damage, repair costs and specialist reports, you and your settlement specialist may be able to agree on the extent and cost to repair the earthquake damage, and we may be able to progress to settlement.
- **If we don't hold your current assessment information or if you haven't had all of the earthquake damage to your home assessed**, you will need to engage a licensed builder to assess your earthquake damage and the repair costs, and supply any expert reports that might be needed to reach a settlement, such as structural engineering or drainage reports.

Your licensed builders quote(s) for your earthquake damage repairs needs to include all necessary details for you to know exactly what is included in their scope of works, and for Toka Tū Ake EQC to accurately understand and assess the scope of works and associated quote.

This gives you and us confidence that your licensed builders quote(s) includes all necessary repairs and helps avoid delays in our initial assessment and settlement, as well as the potential for variation requests and construction delays.

3 <https://www.engineeringnz.org/public-tools/christchurch-residential-earthquake-claims-service/engaging-engineer/>

Here's what to expect your licensed builder to include in their assessment and associated quote(s):

- **Assessments and associated quote(s) should clearly state what their content is based on.** This includes inspections and assessments that have been done, when and by whom, as well as other supporting information, any assumptions and clarifications.
- **Elements and rooms should be separated.** All items being repaired in those areas should also be clearly defined with transparent descriptions and measurements.
- **Large structural elements should be priced in detail.** Be specific to the scope of works/ engineer report, site conditions and include adequate descriptions and measurements.
- **Ensure the licensed 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.
- **Subcontractor quotes** – Any subcontractor quotes should also be itemised and included in the main licensed builders quote(s) for all repairs.
- **Professional fee costs should be individual and transparent.** These should not be grouped together as a lump sum (e.g. separate costs for engineering design, building consents, construction monitoring).

- **Co-funding** – If you are looking to undertake any owner's works/renovations in addition to your repair this should also be specified, but separated in the licensed builders, and any other professionals, quotes. Please discuss any co-funding with your settlement specialist to understand what this may mean in regards to settlement.

SECTION TWO: ON-SOLD SETTLEMENTS

Reaching a settlement

Once Toka Tū Ake EQC has confirmed you are eligible for the On-sold support package, your settlement specialist will look at the information and assessments you have provided about the earthquake damage to your property.

The next step is making a time to talk with you about the process for settling your claim. This will include a walk-through of your property with your licensed builder and any other experts that might be required to agree the scope of works.

We want to agree a settlement with you as soon as possible, so we need to receive your licensed builders assessment, quote(s) and any specialist reports within five months of confirming your eligibility for the support 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 regularly (about once a month) for an update on your progress, but you can also contact them any time that you need to.

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

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

Your settlement offer

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

This offer will include a detailed breakdown of the costs included in the settlement, a settlement agreement, a statutory declaration and – where applicable – documentation for an encumbrance to be placed over the title of your property.

The settlement agreement provides the details of the earthquake repairs to your property that must be completed, and the statutory declaration confirms that you will use the on-sold ex gratia payment to do those repairs.

Settlements over \$150,000 - Placing an encumbrance on the Record of Title

If your on-sold ex gratia payment exceeds \$150,000, an encumbrance will be registered on the Record of Title with Land Information New Zealand (LINZ).

This will mean 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.

The encumbrance will be removed once the agreed repairs have been completed and you have sent Toka Tū Ake EQC the documentation confirming this. This documentation includes *Producer Statements* signed by your licensed builder and experts engaged in the repairs (e.g. structural engineers, electricians, plumbers), confirming work has been done as per the design specifications. A Code of Compliance Certificate is required where the works require a building consent.

You will need to instruct your own lawyer to manage the process for registering and removing the encumbrance with LINZ. Toka Tū Ake EQC will cover the legal costs related to registering and removing the encumbrance as part of the settlement payment.

Your local Council's property file

Toka Tū Ake EQC will 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.

Receiving your On-sold ex gratia payment

Payments will be administered depending on the value of the over-cap portion of the payment:

Over-cap portion of payment	Receipt of payment
Less than \$15,000	Single payment within 10 working days of Tokā Tū Ake EQC receiving all completed documentation.
\$15,000 - \$300,000	Three tranche payments: <ul style="list-style-type: none"> (a) 75% crown ex gratia within 10 working days of receiving fully executed settlement documents (or upon proof of demolition, if applicable) (b) 15% on evidence the repairs/rebuild being 75% completed (c) 10% on completion
\$300,000 +	Four tranche payments: <ul style="list-style-type: none"> (a) 50% crown ex gratia within 10 working days of receiving fully executed settlement documents (or upon proof of demolition, if applicable) (b) 25% once evidence of repairs commencing is provided; (c) 15% on evidence the repairs/rebuild being 75% completed (d) 10% on completion
\$150,000 and above	Tranche payments as above, conditional on the homeowner registering an encumbrance against the Title of the property. This will secure the agreement to complete repairs over \$150,000 (see <i>Settlements over \$150,000 above</i>).

Please note any entitlement you have under the Act will be paid separately and will be paid in full within 10 working days of Tokā Tū Ake EQC receiving and acknowledging all completed documentation.

Some additional information we'll need from you

We'll need you to give your settlement specialist the following information to ensure we pay any entitlement to the correct bank account:

- 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 in regards to your residential property.

You can provide this at any time, however, having this information to hand will ensure there aren't any delays once your entitlement has been determined.

Tax obligations for the ex gratia payment

The On-sold ex gratia payment is inclusive of any goods and services tax (GST). If you have questions about your GST obligations, please seek advice from a tax advisor.

Talking to your bank

As 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 will need to share the details of the repair or rebuild contract with them so that they know when they will need to release any funds currently sitting against your mortgage.

SECTION THREE: COMPLETING YOUR REPAIRS

Because you'll be engaging your own licensed building practitioner, you will need to manage that relationship and be satisfied with the quality of their work. If you have any issues with your licensed builder or other parties you've engaged, you'll need to raise your concerns with them directly.

All repairs will need to be completed in line with the agreed scope of work and comply with any applicable council regulations and laws.

The Licensed Building Practitioner⁴ and Building Performance⁵ websites provide helpful guides on how to address concerns you may have with your licensed builders work.

You can also find out more about consumer protection measures and how to ensure there are no surprises between you and your licensed 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).

⁴ www.lbp.govt.govt.nz

⁵ www.building.govt.nz

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

1. Ensure you have a written contract with your licensed builder so everyone understands their obligations, requirements and expectations.
2. Before you sign a contract, ask your licensed 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 stages of the build and how to protect yourself.
3. Once the building work has been completed, your building practitioner 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.
4. You have an automatic 12-month defect repair period when licensed builders have to fix any defects you've told them about in writing.
5. 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).
6. Licensed builder practitioners can be fined if they don't comply with the law.

If you feel unable to manage 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.

SECTION FOUR: USEFUL RESOURCES

- Visit the www.eqc.govt.nz/insurance-and-claims/canterbury-earthquake/on-sold-over-cap-properties/ section on the Toka Tū Ake EQC 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 practitioners⁶ 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 (www.building.govt.nz or call **0800 24 22 43**)
- Know your rights booklets – Information from MBIE for homeowners and licensed building practitioners, outlining your rights and how to rebuild with confidence (<https://www.building.govt.nz/assets/Uploads/getting-started/know-your-rights-consumers-booklet.pdf>)
- 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 (www.engineeringnz.org or call **04 473 9444**)

Local Canterbury Councils – Environment Canterbury has listed Local Councils in the Canterbury region (www.ecan.govt.nz or call **0800 324 636**)

⁶ <https://www.lbp.govt.nz/>

SECTION FIVE: ANSWERS TO SOME FREQUENTLY ASKED QUESTIONS

We want to ensure you have all the information you need, so we have answered many of the questions you might have below. **If there is anything else you need to know, please contact your Toka Tū Ake EQC settlement specialist.**

We know this work is important to you and it’s important to us too. We want you to get the earthquake damage to your property repaired as soon as possible, so that Cantabrians do not continue to live in earthquake damaged homes.

Completing repairs

Q: Who will repair my property?

A: Toka Tū Ake EQC is making the ex gratia payment on behalf of the Crown only, not managing any repairs. You will need to find your own licensed building practitioner to do the repairs, manage the process and ensure repairs are completed properly.

Q: Will I need to complete the repairs within a certain timeframe?

A: Yes, they will need to be completed as soon as reasonably possible once you’ve received the initial payment. You can discuss your repair plans with your settlement specialist.

Q: How do I find a licensed builder to do my repairs?

A: The Ministry of Business, Innovation and Employment (MBIE) provides licenses to building practitioners (LBPs). LBPs have been assessed as competent to carry out building work essential to the structure of residential buildings. You can find more information on the LBP website: www.lbp.govt.nz

Q: Can I have my licensed building practitioner complete other work at the property, in addition to the repairs for earthquake damage?

A: Yes, the support package only covers the works required to repair missed earthquake damage, but if you wish to make additional improvements to your property at your own expense you can discuss this with your settlement specialist and licensed builder.

Q: Can I use the cost to repair my house towards rebuilding instead?

A: Yes, where it is economical to repair your home but your preference is to rebuild, you will need to contribute additional costs yourself. Any settlement from the On-sold support package would be based on estimated repair costs and no variations or contingencies would be payable.

Managing licensed building practitioners/issues

Q: What will happen if the repairs aren't up to standard?

A: All repairs will need to be completed to the standard required under the 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 new. Repairs must also comply with any applicable laws.

Q: How will issues with the repair process be dealt with? For example, faulty engineering, poor work quality or council inspection errors?

A: The contract for building repairs will be between you and your chosen licensed builder. You will need to ensure you are satisfied with the quality of their work and that repairs comply with council regulations and other laws. If you have any concerns about the standard of work on your property, raise those concerns immediately with your licensed builder.

Q: Will the On-sold support package protect us during the 12 months after the repairs are completed (the defect liability period), in case there are issues with the licensed builder?

A: No, because the repair contract is between you and your licensed builder, you will need to raise any work quality issues with them. Guidance can be found online on the government's Licensed Building Practitioners⁷ and Building Performance⁸ websites.

⁷ www.lbp.govt.nz

⁸ www.building.govt.nz

Non-completion of repairs

Q: What would happen if my circumstances change after I have received an initial payment and I am no longer able to complete the reinstatement work?

A: The statutory declaration you will be required to sign to receive any payments under the On-sold support package means you need to ensure the repairs are completed. You will have a legal obligation to do this.

Q: What if I sell the property before the repairs are completed?

A: You will still be responsible for completing the repairs, per the agreed scope of works, as the On-sold support package benefits are not transferrable.

The On-sold support package

Q: Is there a maximum amount that can be paid under the support package?

A: There is no specified limit, any payment will provide for the cost to repair or reinstate all earthquake damage in accordance with the replacement standard in the Act.

Q: If I need to move out of my home during the repairs, will the cost of storage or accommodation be covered?

A: Yes, the reasonable cost of temporary accommodation and storage will be covered.

Q: Will you reimburse the cost of any specialist reports I have already obtained?

A: The support package includes reimbursement of reasonable specialist reports if these have been used to help determine the repair strategy for your home. Where required, Toka Tū Ake EQC will reimburse eligible homeowners for the following kinds of specialist reports:

- Structural engineers
- Drainage
- Geotech
- Asbestos
- Roofing
- Cladding

Q: What is an ex gratia payment?

A: 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.

Encumbrances

Q: What is an encumbrance?

A: An encumbrance is a legal instrument registered against the Title of your property. This will mean anyone who requests your property file from Land Information New Zealand (LINZ) will see there is an encumbrance registered and will know that earthquake repairs have not yet been completed.

Q: Why do you need to put an encumbrance on my Title during the repairs?

A: The aim of this settlement package is to make sure that eligible homeowners of properties with missed earthquake damage are repaired, so Cantabrians don't continue to live in earthquake damaged homes. The encumbrance will be removed by your lawyer once the repairs have been completed.

Q: Who will be responsible for registering the encumbrance on my Title?

A: Your own lawyer will register the encumbrance with LINZ. The reasonable legal fees associated with registering and removing the encumbrance will be reimbursed.

Q: How do I get the encumbrance over my property released?

A: Once the agreed repairs have been completed, you will need to forward us documentation that confirms this. This documentation includes 'Producer Statements' that are signed by your licensed building practitioner and experts engaged in the repairs (e.g. structural engineers, electricians, plumbers) confirming work has been done as per the design specifications. A Code of Compliance Certificate is required where the works require a building consent. Your lawyer will then organise the encumbrance to be removed.

FOR MORE INFORMATION:

Visit www.eqc.govt.nz or;

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

If English is not your first language you can ask us for an interpreter, at no cost to you, by calling Toka Tū Ake EQC on **0800 DAMAGE (0800 326 243)** or request a translated version of this document on www.eqc.govt.nz

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