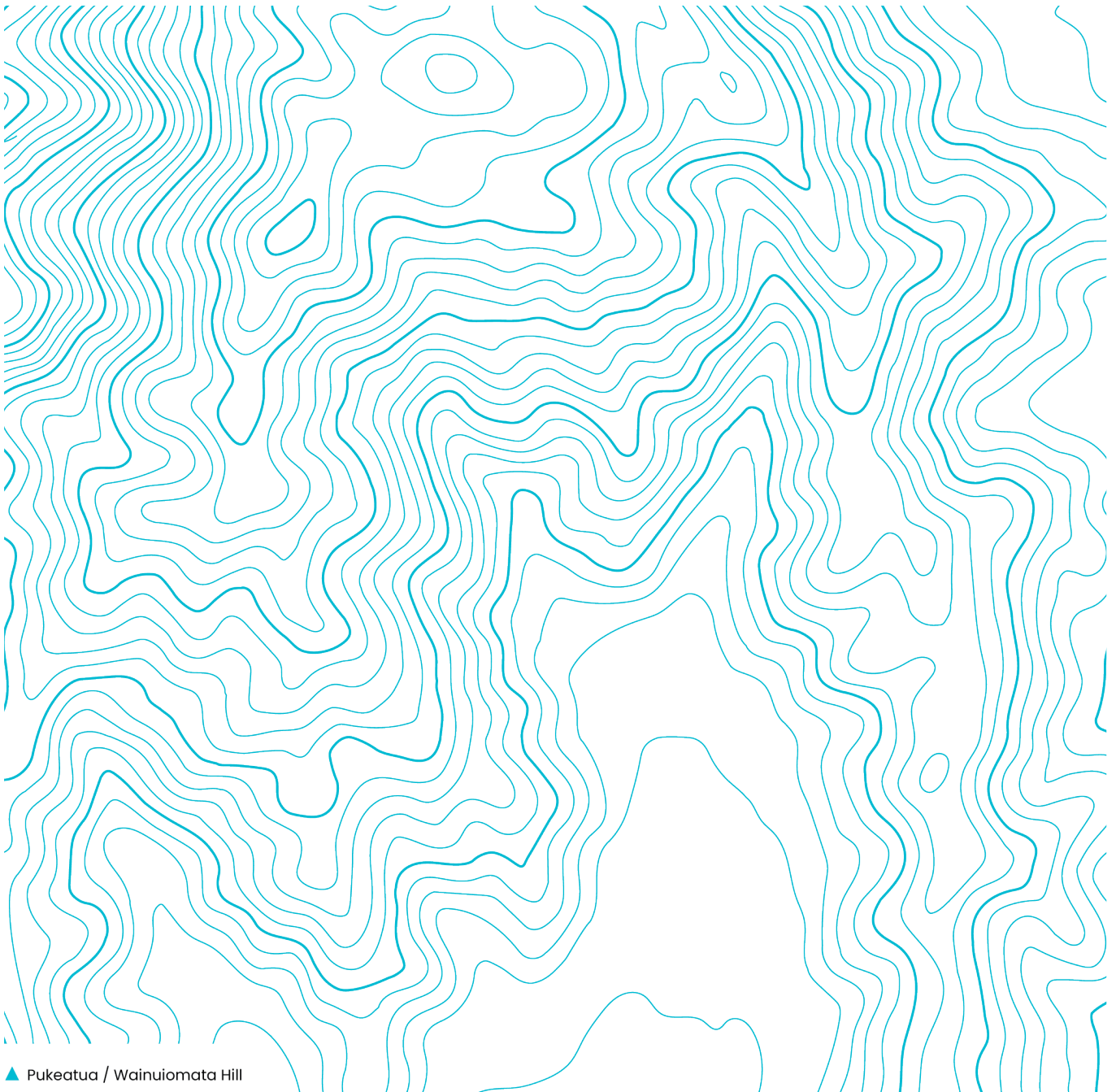


Producer Statement Policy & Procedure

Building Control & Consents



▲ Pukeatua / Wainuiomata Hill

Intention

The intent of this policy is to specify the use and acceptance of producer statements by Hutt City Council (HCC) acting as a Building Consent Authority (BCA).

Scope

This policy has been prepared by HCC to provide guidance on the use of producer statements as one means of verifying compliance with the New Zealand Building Code (NZBC). It sets out conditions on which producer statements may be accepted by the BCA for the purposes of assisting to establish that the building project complies with the NZBC.

Policy Statement

Acceptance of producer statements is at the discretion of the BCA and will be one of the ways to be satisfied that the building work complies with the NZBC.

1. Policy Principles

The following principles underpin the creation of this policy:

1.1 Principle 1

The policy shall provide a process that enables the continued consideration and acceptance of producer statements as one means of establishing the building work complies with building standards and the NZBC.

Explanation:

- Producer statements were provided for under the Building Act 1991, however corresponding provisions were omitted under the Building Act 2004 (the Act). The Ministry for Building, Innovation and Employment (MBIE) has advised Territorial Authorities (TA) that it intends producer statements continue to have a place in the building consents process.

1.2 Principle 2

Council, through performance of its role and functions as a BCA is committed to taking responsible course of action that will ensure its obligations under the Act are met.

Explanation:

- Producer statements may be accepted providing the criteria set out in this policy is satisfied. However, the BCA retains the right to refuse to accept any producer statement.

2. Producer Statements

2.1 Producer Statements Described

Producer statements are formal statements used to confirm that specific work will be, or has been, carried out in accordance with nominated performance requirements of the NZBC or conditions of a building consent.

2.2 Purpose of Producer Statements

The purpose of a producer statement is to:

- Allow the BCA to rely on that statement thereby enabling it to be satisfied on reasonable grounds that the work complies with the requirements of the NZBC and/or the building consent.
- To provide a statement that specific completed building work complies with the building consent and/or the NZBC (as required).
- To reduce the BCAs input into specific aspects of design review and processing or construction monitoring work, thereby providing a more cost efficient and effective service to clients.

2.3 Types of Producer Statements

There are two categories and four types of producer statements as noted in the table below:

Design	
Producer statement design (PS1)	Intended for use by the person responsible for design elements and when the statement will be relied on by the BCA to grant a building consent.
Producer statement design review (PS2)	Intended for use by an independent designer and when the BCA does not undertake an internal review, relying on a design review to grant the building consent.
Construction	
Producer statement construction (PS3)	Intended for use when as a condition of the building consent, construction work is required to be monitored and inspected by a suitably qualified person.
Producer statement construction review (PS4)	Intended for use when as a condition of a building consent, construction work is required to be monitored and inspected by a suitably qualified person in circumstances when the BCA will rely on the producer statement to issue a Code Compliance Certificate (CCC).

2.4 Insurance

While providers of producer statements usually have professional indemnity insurance, this is not always explicitly stated. Insurance cover is a contractual matter between the insured and an insurer that assists the insured to meet claims against them. The terms and conditions of an insurance policy and the compliance with these are not publicly available. The choice of a specific level of professional indemnity insurance in producer statement is a commercial decision which cannot be a determining factor in whether the work covered in a producer statement has been carried out in accordance with the building consent or whether it will meet the performance standards of the NZBC.

3. Approval Process for Producer Statements

The BCA is required to assess each application on its merits in order to satisfy the reasonable grounds test under the Act. Documentation recording the process used to reach a decision is listed within the processing checklist for each application as part of the consent approval process for PS1s and PS2s. The assessment of PS3s and PS4s is undertaken as part of the CCC process.

Details of the proposed producer statements to be supplied on completion of the work should be included as part of the building consent application so all parties can agree on the documentation to be supplied.

4. Producer Statement Authors

The BCA will generally accept producer statements from authors whose competency has been assessed as part of the registration process for an occupational licensing statutory register and the work is within their field of expertise. Registers include those administered by the following organisations:

- Chartered Professional Engineers Council
- Registered Architects Board
- Plumbers, Gasfitters and Drainlayers Board
- Electrical Workers Registration Board

This includes authors whose competency has been assessed via an overseas registration process that are considered equivalent to the above registers where the work is within their field of expertise.

When considering producer statements for the installation of fire safety systems, the BCA will generally accept authors who are registered independently qualified persons (IQP) of have a Fire Protection Association membership.

All other professionals who don't meet the above criteria should advise the BCA prior to undertaking work so an assessment can be made to establish if a producer statement will be accepted. This will be undertaken on a case-by-case basis using the criteria set out in Appendix 3.

Producer statements will be assessed against the criteria set out in Appendix 1 with the outcome of the assessment recorded on the appropriate checklist.

A copy of each producer statement supplied by an approved author will be kept in the electronic file associated with the relevant application, e.g. building consent, certificate of acceptance, etc.

Should a producer statement not be accepted by the BCA the applicant may apply for a determination to MBIE under section 177 of the Act.

5. Peer Reviews

The BCA may initiate an external peer review when the work of the design or building professional is required to be reviewed by another professional. A peer review is normally requested to support the information submitted along with a building consent application due to the complexity of the proposed building work.

This would usually be requested when the BCA recognises that it does not have the expertise in-house to undertake a complete assessment of the design. Such situations may include:

- For those elements of the consent assessment or inspection process that are outside the competence of the BCA.
- To complete the entire consent and inspection process for a project outside the internal capability of the BCA.

The BCA is responsible for determining whether an external peer review is required and will be involved in selecting the design professional who will undertake the review. This ensures that the review has a degree of independence from the BCA and the building professionals associated with the design and construction of the building work.

The cost of the peer review will be at the applicant's expense.

6. Producer Statement Requirements for Structural Design

6.1 Acceptable Solutions

Acceptable solutions can be used by design professionals and no specific engineering qualifications are required to submit a design using the acceptable solutions listed within clause B1 of the NZBC. The Building Officers processing building consents will process these applications without recourse to an engineer.

Unless the applicant would like to submit a producer statement, the BCA will not require one where the application is being assessed against these acceptable solutions of the NZBC.

6.2 Verification Methods

If a verification method is to be used by a building consent applicant to demonstrate compliance with clause B1 of the NZBC, the BCA would expect this to be accompanied by a producer statement from a suitably qualified design professional. Clause 1.0.3(e) of B1/VM1 provides some guidance regarding who should use this methodology. If this is not the case, then a peer review may be part of the building consent approval process.

Depending on the complexity of the work, a peer review may be required to allow the BCA to be satisfied on reasonable grounds that the proposed work will comply with the NZBC.

The following consents may require peer review checking:

- Alternative solutions for building consents where the engineering design is outside the acceptable solutions and verification methods for the clause B1 of the NZBC either in part or as a whole.
- Building consents falling into levels Commercial 2 and above (refer to the National BCA Assessment System published by MBIE for a full description of building levels).
- Building consents that are considered high risk at the discretion of the Building Officer.

If your project fits within these criteria, the then BCA should be contacted to have a discussion regarding the scope or brief for the peer review. A design features report is the minimum information required at this point. A pre-application meeting can be useful. Refer to:

[Building Consent Pre-application meeting request.](#)

If a peer review is considered necessary, the applicant should be informed and offered the ability to organise the peer review themselves. This often has both cost and timesaving benefits to the applicant. The BCA will still be involved in selecting a suitable peer reviewer in agreement with the applicant.

Consent applications for levels Commercial 1 and below (that include structural designs) are generally considered low risk. The design information provided by the applicant's consultant engineer (PS1) including producer statements will be assessed by the BCA staff to establish on reasonable grounds that the building work will comply with the NZBC.

7. Producer Statement Requirements for Fire Design

7.1 Acceptable Solutions

Acceptable solutions can be used by design professionals. No specific fire engineering qualifications are required to submit a design using the acceptable solutions listed within the Fire Safety Clauses of the NZBC. The Building Officers processing building consents will process these applications without recourse to a specialist fire engineer.

Unless the applicant would like to submit a producer statement, the BCA will not require one if the application is being assessed against these acceptable solutions of the building code.

7.2 Verification Methods

Where the building or its features are outside the scope of the acceptable solution of the fire safety clauses from the building code, the verification method C/VM2 may be used. The verification method C/VM2 is suitable for use by professional fire engineers who are proficient in the use of fire engineering modelling methods.

Design proposals under verification method C/VM2 need to fulfil the following criteria:

- Designed by a qualified professional engineer
- Peer reviewed by an engineer that is satisfactory to the BCA

The BCA will only accept a design proposal under the verification method C/VM2 by a qualified professional engineer and is accompanied by producer statements (PS1 and PS2). Given the specialist nature of fire safety design, the provider of the producer statement and the peer reviewer of such proposals must be both a Chartered Professional Engineer and a member of the Society of Fire Protections Engineers.

The following steps are required when dealing with C/VM2 solutions:

1. The applicant contacts the BCA as part of the Fire Engineering Brief at the concept stage of the project as required within the guidance for the user of the verification method. The BCA is identified as a relevant stakeholder in the Fire Engineering Brief process as the “Authority Having Jurisdiction” (see International Fire Engineering Guidelines – 2005) and as confirmed by MBIE.
2. The BCA will supply the applicant a list of suitably qualified professional engineers as a regulatory reviewer to represent them with the C/VM2 process.

Agreement is achieved between the applicant and the BCA as to which engineer identified on the list will be engaged by the applicant to represent the BCA through the C/VM2 process. The parties understand and agrees that the Regulatory Review Engineer will be working on behalf of, and therefore represent, the interest of the BCA during their engagement. The applicant agrees that they will cover all costs associated incurred by the Regulatory Compliance Reviewer for the work undertaken.

This may be on direct invoice from the reviewer to the applicant but shall in no way interfere with the duty of care undertaken by the Regulatory Compliance Reviewer to the BCA. If the BCA consider the integrity if a review has been compromised, they reserved the rights to employ a second regulatory reviewer to undertake a further review or audit on the first review. The applicant shall be directly responsible for any costs, including the additional reviewer’s cost, should this situation arise.

3. The Regulatory Review Engineer represent the BCA as required throughout the verification method process to allow them to provide a PS2 on completion of the design of the building.
4. On completion of the building design the Principal Fire Engineer representing the applicant will provide a PS1. The Regulatory Review Engineer representing the BCA will supply a PS2 to the applicant and each producer statement will cover clauses C1–6 of the NZBC.
5. The consent application is submitted to the BCA, including all producer statements and calculations related to the fire design of the building. This documentation is used by the Building Officer processing the consent application to satisfy the BCA on reasonable grounds building code compliance will be achieved if the building is constructed in accordance with the supplied plans and specifications.

7.3 Alternative Solutions

If an alternative solution of fire design is proposed for a building consent, the BCA strongly recommend being contacted early in the design process to discuss the proposal and the information required as part of a building consent application.

The BCA will not accept a design proposal using alternative solution unless it has been designed by a qualified professional engineer, peer reviewed by an engineer that is satisfactory to the BCA and is accompanied by producer statements (PS1 and PS2). Given the specialist nature of fire safety design the provider of the producer statement and the peer reviewer of such proposals must be both a Chartered Professional Engineers and a member of the Society of Fire Protection Engineers.

7.4 Fire and Emergency New Zealand Review (FENZ)

Building consents required to be assessed by FENZ as noted within the Gazette Notice and as per section 46 and 47 of the Building Act 2004 will be forwarded as required.

Any consent requiring this review will be forwarded as soon as possible after the consent is received to ensure the memorandum is supplied within the processing timeframes. The cost of this review will be added to the cost of the building consent.

Consideration will be made to the recommendations supplied within the memorandum as part of the building consent processing procedure and decisions recorded on the applicable processing checklist.

8. Producer Statement Requirement for Other Design Work

The BCA does not retain in-house staff specialists required for the review and granting of all building consent applications. Depending on the scope of the work involved producer statements may be one way for the BCA to be satisfied to reasonable grounds that the proposed work meets the NZBC.

The following building work is a sample of the types of work where a producer statement may be requested:

- Marine Coastal assessments
- Geotechnical assessments
- Assessment of air conditioning equipment including cooling towers
- Lift installations
- Refrigeration equipment assessments
- Acoustical Engineering assessments
- Specialist façade construction

The discussion with a building consent applicant regarding producer statements to support a design will be made by the Building Officer handling the application, with their reasons for decisions in assessing the compliance paths recorded on the appropriate checklist. It is expected that the applicant will ensure the BCA are aware of any other specialist areas listed above at the time the building consent is lodged so that if a producer statement is required, the process can be initiated immediately.

The BCA retains access to specialists for the purposes of completing external peer reviews or obtaining specialist advice not retained in-house and if necessary, will engage these consultants at the cost of the applicant to satisfy the requirements of Section 49 of the Building Act 2004.

9. Producer Statement Requirements for Code Compliance Certificate (CCC)

At the time the application for CCC is made, all documentation that is agreed to be provided at that time needs to be provided to the BCA. This should include any inspection notes, including when inspections were done and by whom, and manufacturers specifications referred to. If the producer statement is not required due to the way the work was undertaken, an explanation of why it is no longer required, should be provided.

Producer statements will be reviewed at this time to ensure they confirm the work undertaken has been constructed in accordance with the approved building consent documentation and / or the NZBC, the author is identified and appropriate for the situation. The producer statement has been completed in full identifying all elements of the work that is subject of the statement. This information is recorded on the appropriate check sheet.

10. Useful Documents

- Engineering NZ/ACENZ Practice Note 1: Guidelines on Producer Statements, Version 3, January 2014.
- MBIE: Determination 2018/027 Regarding the refusal to issue a code compliance certificate for bored piles to a stadium building at 22 Surrey Park Road, Invercargill, 15 June 2018.
- MBIE: Guidance on the use of Certificates of Work, Producer Statements, and Design Features Reports by Chartered Professional Engineers under the new Restricted Building Work regime Version1, July 2013.
- Riskpool NZ Mutual Liability Riskpool - Essential Features of a Producer Statement.

Appendix 1: Essential Features of a Producer Statement

To ensure the robustness, effectiveness and consistency of producer statements, there are essential features that a producer statement must have as identified in the table below.

Item	Description
Designation of work – What is it for?	For the purposes of obtaining a building consent, CCC or compliance schedule, the type of statement being issued must be designated as either a Design or Construction statement.
Location – Where is the particular building work?	The producer statement must uniquely identify where the particular building work is taking place or has taken place.
Identification	The producer statement must contain a unique identifier. It is suggested that a number and / or date appended.
Description of work – What is the particular building work?	A clear description of the work covered by the statement identifying all or part of the work to be covered by the producer statement.
Specific reference to building code or building consent – What parts of the building code or building consent are claimed?	<p>Design – Should state which relevant clauses of the building code will be met.</p> <p>Construction – Must state which conditions of the building consent must be met.</p>
Justification to support claim – What is the basis of the claim?	<p>Design – The producer statement must state the basis of any claims made in the producer statement together with any documentation relied upon.</p> <ul style="list-style-type: none"> • Standards referenced • Principles on which the statement is made • Technical publications e.g. BRANZ • Manufacturer literature • Calculations to be provided in support of producer statement

Item	Description
Conditions / Limitations on the producer statement	<p>The producer statement must any limitations or conditions on the statement's validity.</p> <p>Any limitations noted within the producer statement will be assessed to establish what impact they have on the value of the statement. If the value has been eroded due to the limitations included, the statement will be rejected.</p>
Inspection requirements – What is the basis of the claim?	<p>If the design is based on assumptions these must be clearly identified and reference so that verification can be assessed and confirmed onsite.</p> <p>If inspections are necessary, these must be noted. A separate list of the required inspections and who will perform these should be provided. This will be listed as a condition(s) of the building consent.</p>
Date, signature and name – Who is the Producer?	<p>Date, signature and written identification of the person issuing the statement, their qualification and a statement of their current professional insurance provisions must appear on the statement.</p>

Appendix 2: Criteria for Assessing Authors of Producer Statements

The following table sets out the criteria needed to be assessed when establishing the suitability of an author of a producer statement.

Criteria	Supporting Comments
Registration	<ul style="list-style-type: none"> • Registration under statute (CPEng) • Licensed Building Practitioner e.g. Plumbers • Licensed Gasfitter or Drainlayer • Other
Qualifications	Qualifications should relate to the type of work that the author is submitting for approval.
Technical Competence	The applicant must demonstrate technical competence to the satisfaction of the BCA. This may be references from peers in their industry or an assessment of the person's work.
Experience	Length of experience post qualification and work experience relevant to the project.
Insurance	Insurance cover is a contractual matter between an insured and insurer.
Supervision and Quality Assurance e.g. ISO Certification	BCAs are required to have a quality management system (accreditation) to demonstrate the robustness of their systems and procedures. Individuals or companies issuing producer statements that have quality management or assurance systems in place, supports and adds to the robustness of the statement being made.
Conflict or Financial interest in the project	The BCA will consider conflicts of interest on a case-by-case basis and determines what constitutes a conflict or financial interest.
Professional affiliations	Professional affiliations are important because membership of most associations requires training and continual professional development.
Work history	An overview of work history in support of the competency of the person or company making the statement.

Appendix 3: Categories of Building Work for which a Producer Statement May Apply

Design Phase	
Category	Requirement
Specific engineering design	<p>A producer statement relating to design work shall have attached all relevant calculations and any other justification or supporting information.</p> <p>To be prepared by a Chartered Professional Engineer (CPEng) with demonstrated competence in the relevant design discipline.</p>
Geotechnical assessment	To be prepared by a registered engineer experienced in the field of geotechnical engineering. Depending on the scope of the project a peer review may be required.
Emergency lighting systems	Producer statement to be prepared by a designer with demonstrated competence in the scale and type of project subject to the producer statement.
Lifts and escalators	Producer statement to be prepared by a designer registered with a relevant professional body with demonstrated competence in the design, manufacturing, installation and servicing of lifts and escalators, who is certified to ISO 90001 or an equivalent standard.
Mechanical ventilation and Air conditioning systems	Design to be prepared by a designer registered with a relevant professional body with demonstrated competence in the relevant design discipline and scale and type of project subject to the producer statement. Depending on the scope of the project a peer review may be required.

Construction Phase	
Category	Requirement
Specific engineering design	Require producer statements from constructor and construction reviewer as detailed within the consent conditions / advise notes.
Warning systems for fire	To be submitted by a company with demonstrated competence in the installation of warning systems for fire of the type subject to the producer statement, supported by a producer statement confirming certification of final inspection and commissioning from a recognised and experienced company in the field of inspecting and commissioning automatic warning systems for fire.
Mechanical ventilation and air conditioning systems	To be prepared by a company with demonstrated competence in the installation of mechanical ventilation and air conditioning systems of the type and scale subject to the producer statement.
Automatic sprinkler systems	To be prepared by a Sprinkler Contractor listed in the current Insurance Council of New Zealand Approval Register, supported by producer statement confirming certification of final inspection and commissioning from a recognised and experienced organisation in the field of inspecting and commissioning automatic sprinkler systems.