

# PRODUCER STATEMENTS



## POLICY & PROCEDURE

## PURPOSE

The intent of this policy is to specify the use and acceptance of Producer Statements.

## SCOPE

This policy has been prepared by Hutt City Council to provide guidance on the use of Producer Statements as one means of verifying compliance with the New Zealand Building Code. It sets out conditions on which Producer Statements may be accepted by the Building Consent Authority (BCA) for the purposes of assisting to establish that building projects comply with the New Zealand Building Code.

## POLICY STATEMENT

Acceptance of Producer Statements is at the discretion of Council and will be one of the ways the BCA may satisfy itself that building work complies with New Zealand Building Code.

### 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 that building work complies with building standards and the New Zealand Building Code.

**Explanation:**

- Producer Statements were provided for under the Building Act 1991 however corresponding provisions were omitted under the Building Act 2004. MBIE has advised Territorial Authorities that it intends Producer Statements continue to have a place in the building consent process.

#### 1.2 PRINCIPLE 2

Council, through performance of its role and functions as a BCA is committed to taking responsible courses of action that will ensure its obligations under the Building Act 2004 are met.

**Explanation:**

- Producer Statements may be accepted providing the criteria set out in this policy is satisfied; however Council retains the right through its functions as a BCA 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 New Zealand Building Code or conditions of a building consent.

### 2.2 PURPOSE OF PRODUCER STATEMENTS

The purpose of a Producer Statement is to:

1. 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 New Zealand Building Code and/or the building consent.
2. To provide a statement that specific completed building work complies with the building consent and/or the Building Code (as required).
3. To reduce the BCA's 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	1. Producer Statement <i>design</i> , known as 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.
	2. Producer Statement <i>design-review</i> , known as 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 a building consent.
Construction	3. Producer Statement <i>construction</i> , known as PS3	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.
	4. Producer Statement <i>construction-review</i> , known as 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.

### 3. APPROVAL PROCESSES 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 PS1 and PS2s. The assessment of PS3s and PS4s is undertaken as part of the Code Compliance Certificate Audit.

Council will accept producer statements from registered Chartered Professional Engineers working within their fields of expertise. Other professionals who are registered with another BCA may also be accepted but will be assessed on a case by case basis.

All other non-chartered professionals wishing to provide Producer Statements as a means of establishing compliance with the Building Code should advise Council prior to undertaking work so an assessment can be made to establish if a producer statement from this provider will be accepted. This will be undertaken on a case by case basis as required using the criteria set out within Appendix 3.

Each producer statement supplied 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 applicable application (be it a building consent, certificate of acceptance etc).

Should a Producer Statement not be accepted by Council as a formal statement used to confirm compliance with nominated performance requirements of the New Zealand Building Code, the applicant may apply for a determination to MBIE under section 177 of the Building Act 2004.

### 4. PEER REVIEWS

Council may initiate an external Peer Review when the work of the design or building professional is required to be reviewed by another design 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 a 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 that 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.

## 5. PRODUCER STATEMENT REQUIREMENTS FOR STRUCTURAL DESIGN

### 5.1 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 New Zealand Building Code. 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, Council will not require one where the application is being assessed against these acceptable solutions of the building code.

### 5.2 VERIFICATION METHODS

If a verification method is to be used by a building consent applicant to demonstrate compliance with clause B1 of the New Zealand Building Code a producer statement must be supplied by a suitably qualified design professional.

Depending on the complexity of the work a peer review may be required to allow Council to be satisfied on reasonable grounds the proposed work will comply with the building code.

The following consents may require peer review checking:

- Building Consents falling in to Levels Com 2 and above (See the National BCA Competency 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 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. Note that Council will still be involved in selecting a suitable peer reviewer in agreement with the applicant.

Consent applications for Levels Com 1 and below (that include structural designs) are generally considered low risk, and the design information provided by the applicant's consultant engineer (PS1) should be suitable to establish on reasonable grounds that the building work will comply with the building code.

### 5.3 ALTERNATIVE SOLUTIONS

Council will not accept a structural design proposal using an alternative solution unless it has been designed by a qualified professional engineer and is accompanied by a producer statement

## 6. PRODUCER STATEMENT REQUIREMENTS FOR FIRE DESIGN

### 6.1 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 New Zealand Building Code. 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, Council will not require one where the application is being assessed against these acceptable solutions of the building code.

## 6.2 VERIFICATION METHODS

Where the building or its features are outside the scope of the acceptable solution of the fire safety clauses of the building code, 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.

Council will not accept a design proposal under verification method C/VM2 unless it has been designed 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 engineer submitting the producer statement must have current insurance and be indemnified up to at least \$1 million dollars unless the value of the building and costs of the building exceed this amount. Council, at its discretion may require proof of current insurance as well as a copy of the qualifications of the engineer.

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

1. The applicant contacts Council as part of the Fire Engineering Brief at the concept stage of the project as required within the guidance for the use of the verification method. Council 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. Council will supply the applicant a list of suitably qualified professional engineers to represent them within the C/VM2 process as a regulatory reviewer. Agreement is achieved between the applicant and Council as to which engineer identified on the list will be engaged by the applicant to represent Council through the C/VM2 process. The parties understand and agree that the Regulatory Review Engineer will be working on behalf of, and therefore represent, the interests of Council during their engagement. The applicant agrees that they will cover all the 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 Council. If Council consider that the integrity of a review has been compromised they reserve the right 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 costs, should this situation arise.

3. The Regulatory review engineer represents Council as required throughout the verification method process to allow them to provide a PS2 on the completion of the design of the building.
4. On completion of the building design the Principle Fire Engineer representing the applicant will provide a PS1. The Regulatory Review Engineer representing Council will supply a PS2 to the applicant and each Producer statement will cover clauses C1-6 of the New Zealand Building Code.
5. The consent application is supplied to Council including all producer statements and calculations in regard to the fire design of the building. This documentation is used by the building officer processing the consent application to satisfy Council on reasonable grounds building code compliance will be achieved if the building is constructed in accordance with the supplied plans and specifications.

### 6.3 ALTERNATIVE SOLUTIONS

Council will not accept a design proposal using an alternative solution unless it has been designed by a qualified chartered professional engineer and is accompanied by a producer statement. 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 engineer submitting the producer statement must have current insurance and be indemnified up to at least \$1 million dollars or if the value of the building and costs of the building exceed this amount then to an agreed amount with Council. Council at its discretion may require proof of current insurance as well as a copy of the qualifications of the engineer.

Depending on the scope of work within the application Council may require the design be peer reviewed. This will happen in conjunction with a referral to the New Zealand Fire Service Design Review Unit.

### 6.4 FIRE SERVICE REVIEW (DRU)

Building consents required to be assessed by the Design Review Unit of the New Zealand Fire Service as noted within the Gazette Notice and as per sections 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.

## 7. PRODUCER STATEMENT REQUIREMENTS FOR OTHER DESIGN WORK

Council 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 required for the following building work.

- Marine Coastal Assessments,
- Geotechnical Assessments,
- Assessment of air conditioning equipment including cooling towers,
- Lift installations,
- Refrigeration equipment assessments, and
- Acoustical Engineering assessments.

The decision to request a producer statement will be made by the building officer dealing with the application with their reasons for decisions in regard to assessing the compliance paths recorded on the appropriate checklist. It is expected that the applicant will make Council aware of any other specialist areas listed above at the time building consent is lodged so that if a Producer Statement is required the process can be initiated immediately.

Council 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.

## 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.

<b>Designation of Work -</b> (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 <b>Design or Construction</b> statement.
<b>Location -</b> (Where is the particular Building Work?)	The Producer Statement must uniquely identify where the particular building work is taking place or has taken place.
<b>Identification</b>	The Producer Statement must contain a unique identifier. It is suggested that a number and/or a date be appended.
<b>Description of Work -</b> (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.
<b>Specific Reference to Building Code or Building Consent -</b> (What parts of the Building Code or building Consent are claimed?)	<b>Design</b> - Should state which relevant clauses of the building code will be met. <b>Construction</b> - Must state which conditions of the building consent have been met.
<b>Justification to support Claim -</b> (What is the basis of the claim?)	<b>Design</b> - The Producer must state the basis for any claims made in the Producer Statement together with any documentation relied upon. <ul style="list-style-type: none"> <li>▪ Standards referenced</li> <li>▪ Principles on which the statement is made</li> <li>▪ Technical Publications, eg, BRANZ</li> <li>▪ Manufacturer's literature</li> <li>▪ Calculations to be provided in support of Producer Statement</li> </ul> <b>Construction</b> - The Producer must state the basis for any claims made in the Producer Statement, the number and type of inspections required, and any documentation relied upon.
<b>Conditions/ Limitations on the Producer Statement:</b>	The Producer Statement must state any limitations or conditions on the statement's validity.  Any limitations noted within the Producer Statement will be assessed to establish what impact they have on the value of the statement. If value has been eroded due to the limitations included the statement will be rejected.
<b>Inspection Requirements -</b> (What is the basis of the claim?)	If the design is based on assumptions these must be clearly identified and referenced so that verification can be assessed and confirmed on site.  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.
<b>Insurance</b>	A minimum PI insurance of \$500,000 is required on all projects, unless Council agrees that a lesser value is appropriate for smaller projects.
<b>Date, Signature and Name -</b> (Who is the Producer?)	Date, signature, written identification of the person issuing the statement, their qualifications and a statement of their current professional insurance provisions must appear on the statement.



## 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"> <li>▪ Registration under statute (CPEng)</li> <li>▪ Licensed Building Practitioners Plumbers</li> <li>▪ Gasfitters and Drainlayers</li> <li>▪ Other</li> </ul>
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 maybe by way of references from peers in his/her industry or an assessment of the person's work.
Experience	Length of experience postqualification.
Insurance	<p>Professional indemnity (PI) insurance held by the author. The BCA should seek confirmation of the level of insurance held by the design professional, builder or contractor.</p> <p>A minimum PI insurance of \$500,000 is required on all projects, unless Council agrees that a lesser value is appropriate for smaller projects.</p> <p>Authors of Producer Statements for design and/or design review will be required to procure and maintain Professional Indemnity and Public Liability insurance from a reputable insurer.</p>
Supervision and Quality Assurance eg, ISO Certification	BCA's 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 determine 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

The following table lists areas of building work where producer statements may be required to demonstrate compliance with the building act and its associated regulations. This list is not exhaustive and other areas may be subject to statement requirements.

<b>Design Phase</b>	Specific Engineering Design	A Producer Statement relating to design work shall have attached all relevant calculations and any other justification or supporting information.  To be prepared by a Chartered Professional Engineer [CPEng] with demonstrated competence in the relevant design discipline.
	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 9001 or an equivalent standard.
	Mechanical Ventilation and Air Conditioning Systems	Design to be prepared by a designer 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.

<b>Construction phase</b>	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 a 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.