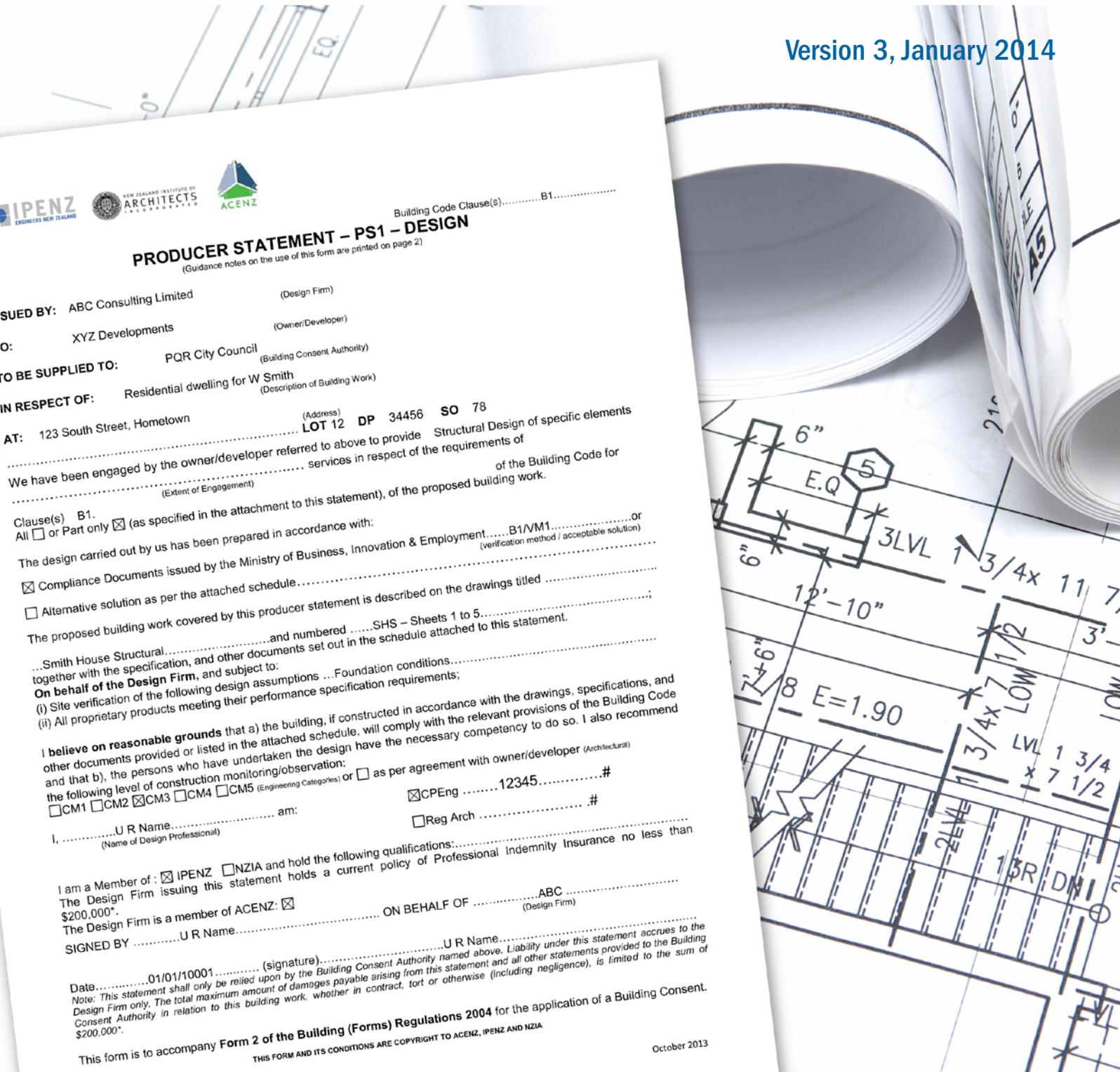


# Guidelines on Producer Statements

Version 3, January 2014



**PRODUCER STATEMENT - PS1 - DESIGN**  
(Guidance notes on the use of this form are printed on page 2)

**ISSUED BY:** ABC Consulting Limited (Design Firm)  
**FOR:** XYZ Developments (Owner/Developer)  
**TO BE SUPPLIED TO:** PQR City Council (Building Consent Authority)  
**IN RESPECT OF:** Residential dwelling for W Smith (Description of Building Work)  
**ADDRESS:** 123 South Street, Hometown (Address) **LOT 12 DP 34456 SO 78**

We have been engaged by the owner/developer referred to above to provide Structural Design of specific elements of the Building Code for services in respect of the requirements of Clause(s) B1.  
 All  or Part only  (as specified in the attachment to this statement), of the proposed building work.  
 The design carried out by us has been prepared in accordance with:  
 Compliance Documents issued by the Ministry of Business, Innovation & Employment.....B1/VM1.....or (verification method / acceptable solution)  
 Alternative solution as per the attached schedule.....  
 The proposed building work covered by this producer statement is described on the drawings titled Smith House Structural.....and numbered SHS - Sheets 1 to 5.....  
 together with the specification, and other documents set out in the schedule attached to this statement.

**On behalf of the Design Firm,** and subject to the following design assumptions: Foundation conditions.....  
 (i) Site verification of the following design assumptions.....  
 (ii) All proprietary products meeting their performance specification requirements:  
 I believe on reasonable grounds that a) the building, if constructed in accordance with the drawings, specifications, and other documents provided or listed in the attached schedule, will comply with the relevant provisions of the Building Code and that b), the persons who have undertaken the design have the necessary competency to do so. I also recommend the following level of construction monitoring/observation:  
 CM1  CM2  CM3  CM4  CM5 (Engineering Categories) Or  as per agreement with owner/developer (Architectural)  
 I, ..... U R Name..... am:  CPEng .....12345.....#  
 Reg Arch .....#

I am a Member of:  IPENZ  NZIA and hold the following qualifications:.....  
 The Design Firm issuing this statement holds a current policy of Professional Indemnity Insurance no less than \$200,000\*.  
 The Design Firm is a member of ACENZ:   
 SIGNED BY ..... U R Name..... ON BEHALF OF .....ABC (Design Firm)  
 Date.....01/01/10001..... (signature)..... U R Name.....  
 Note: This statement shall only be relied upon by the Building Consent Authority named above. Liability under this statement accrues to the Design Firm only. The total maximum amount of damages payable arising from this statement and all other statements provided to the Building Consent Authority in relation to this building work, whether in contract, tort or otherwise (including negligence), is limited to the sum of \$200,000\*.

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## Legal information

The Institution of Professional Engineers New Zealand Incorporated (IPENZ) is the non-aligned professional body for engineering and technology professionals in New Zealand.

The Association of Consulting Engineers of New Zealand (ACENZ) is an incorporated society representing the consulting industry for engineering and related professionals that work in the built and natural environment.

Practice Notes offer guidance to practising engineers by exploring issues of importance to the profession and setting out good-practice methodologies. They are written by practitioners and subject to peer review by IPENZ and ACENZ Members. While every care is taken in their preparation, these documents are not offered as formal advice and practitioners must exercise their own professional skill and judgement in applying them. IPENZ and ACENZ accept no liability arising from their use.

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# 1. Purpose and Scope of Guide

This Practice Note's primary purpose is to encourage consistent, reasonable and appropriate practice in issuing and accepting producer statements originating from Chartered Professional Engineers (CPEng).

Chartered Professional Engineers are deemed to be Licensed Building Practitioners (LBPs) in area of practice 3 as defined under the Building Act and associated regulations. Chartered Professional Engineers who work in the building design area (primarily Structural, Fire, Facade and Building Services engineers) use the PS1, PS2 and PS4 forms issued by IPENZ, ACENZ & NZIA. These engineers have their competence regularly assessed, are listed on national registers and may be subject to disciplinary action by their professional registration authorities. They are bound by their codes of ethics to work within their competence and assessed practice areas.

Producer statements issued by design engineers are specifically covered in this Practice Note. The principles equally apply to architectural design practice and the producer statements issued by Registered Architects.

Other building practitioners, builders, applicators and suppliers also issue producer statements (frequently referred to as PS3s relating to construction work). However their scope, format and dependability are so variable that they have not been included in this Practice Note.

Producer statement recipients are typically Building Consent Authorities (BCAs) and local authorities.

The introduction of "risk-based consenting", Restricted Building Work and the requirement for a "Memorandum from Licensed Building Practitioner: Certificate of Design Work" does not diminish the importance of producer statements or this Practice Note's relevance. It has been observed that appropriately completed producer statements contain all the relevant information required for a memorandum. The issues and principles involved in issuing and reviewing a memorandum are also covered by this Practice Note.

## 2. Background

Under the (now repealed) Building Act 1991, “producer statements” were a defined means of helping provide evidence of compliance with the Building Code to territorial authorities’ building control departments. They could be written by a wide range of building practitioners to cover the design, design review, construction, construction review, installation and building work inspection. However, over-reliance on these statements without sufficient scrutiny of the author’s suitability or accuracy of the contents by councils meant many decisions based on them were not robust. The Hunn Report on the Weathertightness of Buildings, and technical reviews and determinations conducted by the former Department of Building and Housing, have been critical of this over-reliance on producer statements without robust systems around them. The inappropriate use of producer statements led to their removal from the Building Act.

Producer statements have no statutory status under the Building Act 2004. Nevertheless, they remain in widespread use today and are used for design and construction purposes to assist BCAs to establish compliance with the Building Code and the Building Act. As they have no statutory or formal status, accepting producer statements is discretionary for BCAs. By the same token there is no provision for BCAs to require a producer statement, as of right. As a result of their non-mandatory status, limited standardised practice has developed. There is currently such a variation in the way BCAs accept and/or rely on producer statements that there is a resultant degree of confusion, frustration and inefficiency amongst practitioners and BCAs.

In deciding on a “reasonable grounds” basis, whether the design of building work complies with relevant clauses of the Building Code or if construction complies with the approved building consent, a BCA may choose to place some weight on the opinion of competent practitioners. A producer statement, along with its supporting documents is a means by which that opinion can be expressed. To assess what appropriate level of reliance and weight they should place on producer statements, BCAs should have a systematic approach to:

- Assess the nature, complexity, risk and importance of the work
- Consider the producer statement’s form and content
- Confirm the competence of the producer statement author.

Similarly, Chartered Professional Engineers should be aware that BCAs are likely to rely on producer statements to some extent. Therefore, prior to issuing a producer statement Chartered Professional Engineers should be mindful that:

- Responsibilities and potential liabilities may arise from signing a producer statement
- All work should be subject to an appropriate quality assurance process (checking and review)
- It will most often be appropriate for complex work and Alternative Solutions to be subjected to an independent peer review
- Producer statements should only be signed by those who are authorised to do so and who are competent to carry out, or supervise, the work. Note that in this context “work” refers to design, design review or construction monitoring.

This Practice Note contains recommended good practice for Chartered Professional Engineers who write producer statements on the information they should contained. It also gives BCAs guidance to decide what reliance and weight they should place on producer statements in their compliance decision making and how they should go about considering them in their checking process. It is a guide and as such cannot bind either BCAs or Chartered Professional Engineers. However there is no doubt that consistent, standardized and more reasonable practice will help improve efficiency and productivity in the sector. All parties are encouraged to adopt and apply the guidance contained in this document.

# 3. What is a Producer Statement?

For the purpose of this Practice Note a producer statement is a document prepared by a Chartered Professional Engineer confirming his/her professional opinion. This opinion is based on stated reasonable grounds that aspects of design of a building achieve compliance with the Building Code, or that elements of construction have been completed in accordance with the approved building consent.

## 3.1 The Purpose of a Producer Statement

The producer statement's intent is to signal to the BCA that certain design/monitoring work has been done (or overseen/supervised) by a practitioner who is competent to perform the defined work. In principle it may be relied upon by a local authority, BCA or another building practitioner to assist them to reach a decision. This will be based on reasonable grounds that the design and/or elements of the construction of a building comply with either the requirements of the Building Code, a building consent or the Building Act.

A producer statement should not be the sole means upon which a local authority or BCA satisfies itself as to the building work's compliance. That is to say a BCA that relies wholly on a producer statement, without providing some level of assessment, audit or review of the work, is not taking reasonable steps to satisfy itself as to the design or construction's adequacy. BCAs should also satisfy themselves, on reasonable grounds, that the author of the producer statement is suitably competent to have carried out the work described.

Producer statements were not devised as a means of transferring risk and liability from the BCA to the design professional. However both parties should be aware that liabilities can accrue from their use. Unreasonable and unaudited reliance on producer statements as a form of risk mitigation may result in failure both in a technical sense and in relation to financial restitution.

Producer statements deal with compliance at the date on which they were written. They will not necessarily provide assurance of on-going compliance.

## 3.2 Types of Producer Statements

There are currently three forms of producer statement issued by Chartered Professional Engineers. All three generally have quite widespread acceptance by BCAs. These have been jointly developed by the Institution of Professional Engineers (IPENZ), the Institute of Architects (NZIA) and the Association of Consulting Engineers (ACENZ).

These producer statements are known as:

- PS 1 – Design
- PS 2 – Design Review
- PS 4 – Construction Review

It is noted the 6th Schedule of NZS 3910 “Conditions of Contract for Building and Civil Engineering Construction” is a fourth “Form of Producer Statement – Construction” which is also in common, current use by contractors and is typically referred to as a PS3. There are also many other variants of producer statements that are used by designers, applicators, constructors and suppliers who are not Chartered Professional Engineers. This guide does not cover these alternative types of producer statements.

### **3.2.1 PRODUCER STATEMENT – PS1 – DESIGN**

- A PS1 is intended for use by a suitably qualified, competent design professional (i.e. Chartered Professional Engineer) as a statement of opinion. The opinion is based on reasonable grounds that certain aspects of proposed building work will comply with the Building Code, if the work is constructed according to the referenced documentation (e.g. engineering design drawings and specifications).
- A PS1 should record the means of compliance e.g. the Acceptable Solution or Verification Method used and it will normally only cover specifically designed building elements
- A PS1 should always be accompanied by documentation that establishes the means of compliance, i.e. the stated reasonable grounds. This will usually involve calculations and often a design features report.
- A PS1 (or its accompanying documents) should indicate the minimum level of construction monitoring required to provide confidence of effective implementation
- The performance of proprietary products and building systems is normally excluded unless the PS1 relates specifically to a particular proprietary product or building system
- Importantly, a producer statement is not a product warranty or guarantee of compliance. It is a professional opinion.

### **3.2.2 PRODUCER STATEMENT – PS2 – DESIGN REVIEW**

- A PS2 is intended for use by a suitably qualified, independent, competent design professional (i.e. Chartered Professional Engineer) as a statement of opinion, based on a review of design documents (which have been prepared by others) and on stated reasonable grounds, that certain aspects of proposed building work will comply with the Building Code, if the work is constructed according to the referenced documentation.
- A PS2 should record the means of compliance e.g. the Verification Method
- A PS2 should be accompanied by a schedule of the documentation reviewed and a log of the issues raised by the reviewer, along with the responses from the principal designer
- A PS2 may only cover certain specifically designed building elements i.e. it may be qualified as to the scope of the design review. If a PS2 does not cover the entire building project, it is important that the extent and limitations of the design review is made clear to the BCA and client. It is becoming common practice for BCAs to request a PS2 if the proposed work is complex, includes Alternative Solutions or is outside the in-house review expertise of the BCA.
- The term “independent” is judged to be important when a design professional is issuing a PS2. While typically the client/applicant will pay for a peer review it is important that the peer reviewer has the BCAs confidence/acceptance.
- The performance of proprietary products or building systems is normally excluded unless the PS2 relates specifically to a particular proprietary product or building system.

### **3.2.3 PRODUCER STATEMENT – PS4 – CONSTRUCTION REVIEW**

- A PS4 is intended for use by a suitably qualified, competent design professional as a statement of opinion. This is based on reasonable and stated grounds which may include the records of construction monitoring and information supplied by the contractor that certain aspects of building work have been completed according to the building consent and amendments.
- A PS4 should record the level of Construction Monitoring/Observation carried out by the Chartered Professional Engineer (or by persons acting under their control)
- A PS4 should be accompanied by records of the construction monitoring actually undertaken to support the opinion of compliance.

Copies of the producer statement forms are at Appendix 1.

### **3.3 The Role of Producer Statements in Restricted Building Work**

In March 2012 the Certificate of Design Work (Form 2A) was introduced by the building regulator to satisfy the requirements cited in sections 45 and 30C of the Building Act. The Certificate of Design Work is required to be completed only for Restricted Building Work (RBW). RBW relates to houses and small to medium sized apartments, and is classified as that work which relates to primary structure, external moisture management systems or fire safety systems.

The introduction of the Certificate of Design Work does not change the status of the producer statement. Most BCAs continue to rely upon the producer statement, for both RBW and non-RBW, to assist them in determining compliance with the Building Code when granting building consents or issuing code compliance certificates. In respect of RBW where there is specific engineering design input, a producer statement should always accompany the Certificate of Design Work. Where a producer statement has been used to demonstrate Building Code compliance, it should be cited in the “reference column” of the Certificate of Design Work and a copy attached.

Further information can be found in the Ministry of Business, Innovation and Employment’s “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”.

# 4. Accepting Producer Statements

Producer statements can help reduce time and costs for processing consent applications, and the number of inspections that the BCA may need to undertake during the construction process. If used properly, producer statements may also give authorities more confidence that certain building work will be or has been constructed to meet the Building Code and approved building consent requirements.

Regardless of the information provided by a producer statement author, the BCA typically remains responsible for deciding if it is satisfied on reasonable grounds that any building work complies with the Building Act, the Building Code and approved building consent. This concept is altered by Risk Based Consenting.

As outlined in this guide, producer statements have no statutory status under the Act and hence are not mandatory. However a BCA can decide whether to accept a producer statement. If it does accept one, it may choose to what extent it will rely upon it. A BCA should not rely on the issuing of a producer statement as the only means of establishing code compliance, whether this is a PS1 or a PS4.

A BCA can reasonably request a PS1 Producer Statement to accompany an application for building consent. However if the consent applicant doesn't want to or isn't able to provide this, then the BCA must consider other options for establishing code compliance (e.g. engage it's own engineer to undertake a review).

A BCA may reasonably request a PS2 Producer Statement to accompany an independent Design Review, if it is to accept that review. A BCA may also reasonably request a PS4 Producer Statement for Construction Review of specifically designed elements and some will seek to make it a condition of granting a consent. A BCA cannot refuse to issue a building consent or code compliance certificate simply because it cannot be provided with a producer statement. In this situation the BCA will need to assess compliance in another way (e.g. engage it's own engineer to undertake a review or inspection).



# 5. Guidance for Authors of Producer Statements

These notes are principally to guide Chartered Professional Engineers who issue producer statements PS1, PS2 and PS4. They may be the principal designers of a building, designers of a proprietary product or element, or they may be designers of a secondary element (e.g. seismic restraint of mechanical plant). Alternatively, for a PS2 they may have carried out design review of all or part of a building. In a project of any significant size the Chartered Professional Engineer who signs the producer statement will not necessarily have carried out all the design work themselves. Instead, they may be taking responsibility for the work of many.

- The author of a producer statement must be a person (rather than a corporate/legal entity) because the value of the statement is dependent on the individual competence of the author. Nevertheless, the author's affiliation to a legal entity (such as an employee of a company) is a relevant matter in relation to risk mitigation information. Authors should ensure they have legal/contractual authority to commit the design firm/entity to the liabilities implicit with the issuing of a producer statement.
- Authors must only sign producer statements for work which they can attest to and which is within their limits of technical competence. Authors may however rely on other, suitably qualified competent practitioners (Chartered Professional Engineers) – e.g. for a large complex project the total required “competence” may come from a range of practitioners within a firm. Where authors fail to comply with these requirements they may be subject to disciplinary action from the relevant registration authority.
- Chartered Professional Engineers should always use the standard IPENZ/ACENZ/NZIA forms. The wording of the standard producer statement forms should not be amended, except where the instructions indicate this is permissible.
- Authors may need to supply separate producer statements for different clauses of the Building Code as the method of compliance will be different.
- When issuing a producer statement to a BCA that is not familiar with the author's work or competence, the author should expect the BCA to review their listing on the Chartered Professional Engineers register (also known as the Statutory Register).
- Authors of a Design Producer Statement – PS1 – Design should always provide full detailed design documentation (drawings, calculations, details, specifications, document register, design features report, other reports, investigation/test results etc) sufficient to enable their methodology to be understood and checked by a practitioner of equivalent or greater competence. The means of compliance with the Building Code should be clearly demonstrated. In particular any Alternative Solution design (Performance Based Solutions) should be identified.
- Producer Statements submitted by Chartered Professional Engineers will typically cover part rather than all of the proposed or completed building work. This may be because it is excluding elements of non-specific design or because the designer's scope is limited to a small part or element. In such cases the PS1 shall be annotated as “Part Only” and the limits of the design, and applicable clauses of the Building Code, clearly described.
- Where the design relies on proprietary components this should be clearly stated and where possible producer statements from the designers of the proprietary components should be included.
- Authors should consider what information they have relied upon in reaching their opinion expressed in the producer statement. They should clearly state any qualifications/ limitations that may apply as a result.
- Authors of PS1s should include within their supporting information the minimum level of construction monitoring/observation they will be carrying out or will require to be carried out. This level should

be sufficient to provide confidence in the work's effective execution and should be selected from the construction monitoring guideline issued by ACENZ and IPENZ.

Authors of a Producer Statement – PS2 – Design Review who undertake reviews of the design work of others must be impartial and exercise independent judgement. The purpose of a design review for building consent is solely to determine whether compliance has been demonstrated. Any relationship to the person whose work is to be reviewed should be declared as well as any conflicts of interest. Issuers of PS2s should ensure the BCA regard them as being suitably independent and competent before they commence their work.

The PS2 should reference a full register of the detailed design documentation and should be accompanied by a review report. This would include an outline of the review scope, any supplementary calculations undertaken and test results if applicable, and any modifications to the design as agreed with the primary designer. A log of queries raised and responses given should also be included. This information should be provided to the BCA.

The Producer Statement – PS4 – Construction Review shall include reference to the Building Consent Number (and subsequent amendments). It should include, as attachments, inspection records, including instructions given during the construction phase and any drawings amended during construction.

## 6. BCA Guidance for Accepting Producer Statements

These notes are principally for guiding the BCAs and building practitioners who are required to review and, if appropriate, accept PS1s, PS2s and PS4s that have been issued by Chartered Professional Engineers.

- To assess what appropriate level of reliance they should place on producer statements, BCAs should have a systematic approach to
  - Assessing the nature, complexity, risk and importance of the work
  - Confirming the competence of the author of the producer statement
  - Considering the form and content of the producer statement
- When dealing with Chartered Professional Engineers BCAs should use the relevant statutory register to help:
  - Confirm a current competence and good ethical standing, as determined by the registration authorities
  - Identify whether registration has been suspended or placed in abeyance
  - Identify disciplinary actions taken against an author
- The term Chartered Professional Engineer is a statutory professional title with its use controlled by a Registration Authority. To use the title the professional must have been assessed with regard to their qualifications, experience, self acknowledged competency and ethical behaviour. The Statutory Registers do not record details of competency in a particular field because fields of practice are extremely wide. For example the term Structural Engineering covers an enormously wide field of practice. Individual structural engineers who are Chartered Professional Engineers will have experience and competencies that cover only part of the full structural field of practice. Refer to Appendix Two for details or how to access the publicly accessible registers.
- BCAs are encouraged to use information on these statutory registers to help assess producer statement authors' competence and suitability.

- While in general BCAs can rely on Chartered Professional Engineers to work within their practice areas and within their level of competence any authority can choose to ask producer statement authors to state their practice area (specific area of competence).
- Chartered Professional Engineers have their competency re-assessed on a regular basis and are ethically required to work within their competency. BCAs can and should play an important role by reporting to the relevant Registration Authority any instance of a Chartered Professional Engineer working outside or beyond their level of competence. Any successful disciplinary action taken against a Chartered Professional Engineer is recorded on the publicly available registers. The IPENZ website has instructions on how to lodge complaints against Chartered Professional Engineers (refer to Appendix Two). Instances of Chartered Professional Engineers working outside of their areas of competence will be most readily apparent if their work is consistently subject to amendment following peer review.
- BCAs should regard a producer statement as assisting them to reach a decision. This will be based on reasonable grounds that the design and/or elements of the construction of a building, complies with the requirements of the Building Code, and building consent. A producer statement should not be the sole means upon which a local authority or BCA satisfies itself as to compliance of the building work. That is to say a BCA that relies wholly on a producer statement, without providing for some level of assessment, audit or review, is not taking reasonable steps to satisfy itself as to the adequacy of the design or construction. All BCA producer statement policies and procedures should include some form of producer statement risk based audit; (e.g. focusing on frequency of the producer statements accepted from the author, or complexity of design work) Audits must be of technical content (i.e. detail review or independent peer review), not just of BCA processes. This may require assistance from an independent, suitably competent engineer.
- Authorities are advised to adopt a policy relating to accepting (or non-accepting) producer statements which utilise a risk assessment based approach. Factors that may be considered in establishing such a policy may include:
  - The magnitude and complexity of the building work
  - The possible consequences of failure (economic, environmental, health and safety)
  - Confirmation of the competence of the author of the producer statement and any record of disciplinary action (from the Statutory Registers)
  - Extent and quality of documentation provided
  - Completeness of supporting documentation
  - Demonstration of compliance with the Building Code
  - Author's legal/contractual entity information (e.g. professional indemnity insurance)
  - Known quality assurance systems
  - Any of the producer statement's qualifications and/or limitations
  - The peer reviewer's independence from the designer and/or owner
  - The nature and frequency of periodic audits of works for which producer statements are accepted (detailed review, peer review etc).
- BCAs are advised to require the standard IPENZ/ACENZ/NZIA forms to be used. The wording of standard producer statement forms should not be amended, except where the instructions indicate this is permissible.
- The producer statements will typically cover "Part" rather than "All" of the proposed or completed building work. This may be because it is excluding elements of non-specific design or because the designer's scope is limited to a small part or element. In this situation the BCA must find alternative means of satisfying itself that the parts that are not included in the producer statement will meet the Building Code requirements. (e.g. NZS 3604 design)

- Authorities should require PS1s to be accompanied by full detailed design documentation (drawings, details, calculations and specifications, design features report, other reports, investigation/test results etc).
- Proprietary designed elements (e.g. precast flooring or curtain glazing) for which design verification and details will not be available until the proprietary supplier is selected by the owner, should be excluded from the producer statement relating to the application for the building consent. Once details of those proprietary elements are known, and before construction, they should be incorporated into the approved design by a variation or minor amendment to the building consent.
- BCAs accepting PS2s should check those issuing PS2s are acting independently of the primary designer. It is common practice for BCAs to require PS2s for just part of the work covered by the PS1 e.g. complex elements or parts that are Alternative Solutions. Care is required when selecting which elements of the work are to be reviewed.
- When issuing a building consent the BCA should consider whether they wish to request a PS4 for any specific engineering design work. This will usually be for work covered by a PS1 in the building consent. The Chartered Professional Engineer responsible for the design will usually be best placed to recommend an appropriate level of construction monitoring and monitor the completed work.

## 7. Essential Content of Producer Statements

The information that should be included on a producer statement falls under four broad headings:

- (a) Information about the author
- (b) Information about the building work to which the producer statement refers
- (c) Information about compliance of building work
- (d) Information to assist the BCA or local authority determine the extent of reliance to place on a producer statement.

### Information about Author

- This would include the author/s:
- Name (the author must be a person)
- Registration Number/CPEng Number
- Affiliations to professional/technical bodies
- Contractual/legal entity e.g. employer
- Contact details
- Competency statement.

### Information about Building Work

This would include the:

- Specific site and/or building description and date the design/building work was completed. Where the producer statement is intended to apply to part and not all of the building work that should be clearly stated and the scope specified.
- A legal description of site of building work and physical address
- References to relevant accompanying documentation
- The building consent reference (for construction review – PS4).

## Information about Compliance of Building Work

This would include:

- Reference to required compliance document (Building Code clause)
- Method of demonstrating compliance (acceptable solution, verification method or performance-based [alternative] solution)
- Minimum level of construction monitoring required
- Reliance on assumptions, proprietary design and/or other producer statements
- Any limitations of compliance
- Any qualifications of opinion expressed
- Prerequisite conditions to and/or during construction.

## Information to assist the BCA or local authority determine the extent of reliance to place on a producer statement

This would include the:

- Nature of legal entity (company, partnership, etc) to which author is affiliated
- That professional indemnity insurance cover is held and limitation of liability.

# 8. Liability and Professional Indemnity Insurance

A producer statement's purpose is not to act as a risk transfer mechanism.

Because producer statements are not provided for in the Building Act 2004, information about professional indemnity insurance on producer statements is not a legislative requirement (either Building Act 2004 or BCA accreditation regulations). As such the level of insurance cover should have no direct relevance to the statutory decision to determine compliance with the Building Code or approved building consent.

BCAs should adopt reasonable policies that do not require producer statement authors to hold unreasonably high levels of insurance cover, except for complicated projects with a very high value. For the majority of building projects, it is considered reasonable to accept the standard level of professional insurance cover held by most Chartered Professional Engineers, such as that specified by IPENZ and ACENZ.

Even more important is the way BCAs use any insurance information in their decision making. BCAs must assess applications to determine whether they are satisfied on reasonable grounds that the Building Code and Building Act requirements will be met. Any insurance details of producer statement author's company are not directly relevant to this assessment. Relevant details on producer statements, for the purposes of assessing compliance, relate to the building work specifications and information about the skills and experience of the producer statement's author. A BCA should not refuse to assess or grant a building consent application simply because it is not satisfied with the insurance cover held by the Producer Statement author. Some BCAs have policies on minimum levels of insurance required to be carried by the producer statement author's company, while others do not. However minimum levels of insurance to be held are not prescribed in the Act or in regulations.

# Appendix One – Standard Producer Statement Forms

The following producer statement forms were current at the time of publishing this Practice Note. To ensure that you are using the latest version producer statement forms should be downloaded from either the IPENZ or ACENZ websites.

## Producer Statement – PS1 – Design

IPENZ, NZIA, ACENZ



Building Code Clause(s).....

### PRODUCER STATEMENT – PS1 – DESIGN

(Guidance notes on the use of this form are printed on page 2)

ISSUED BY: .....  
(Design Firm)

TO: .....  
(Owner/Developer)

TO BE SUPPLIED TO: .....  
(Building Consent Authority)

IN RESPECT OF: .....  
(Description of Building Work)

AT: .....  
(Address)

LOT DP SO

We have been engaged by the owner/developer referred to above to provide ..... services in respect of the requirements of Clause(s) ..... of the Building Code for All  or Part only  (as specified in the attachment to this statement), of the proposed building work.

The design carried out by us has been prepared in accordance with:  
 Compliance Documents issued by the Ministry of Business, Innovation & Employment ..... or  
(verification method / acceptable solution)  
 Alternative solution as per the attached schedule.....

The proposed building work covered by this producer statement is described on the drawings titled ..... and numbered ..... together with the specification, and other documents set out in the schedule attached to this statement.

**On behalf of the Design Firm**, and subject to:  
 (i) Site verification of the following design assumptions .....  
 (ii) All proprietary products meeting their performance specification requirements;

I believe on reasonable grounds that a) the building, if constructed in accordance with the drawings, specifications, and other documents provided or listed in the attached schedule, will comply with the relevant provisions of the Building Code and that b), the persons who have undertaken the design have the necessary competency to do so. I also recommend the following level of construction monitoring/observation:  
 CM1  CM2  CM3  CM4  CM5 (Engineering Categories) OR  as per agreement with owner/developer (Architectural)

I, ..... am:  CPEng ..... #  
(Name of Design Professional)  Reg Arch ..... #

I am a Member of:  IPENZ  NZIA and hold the following qualifications: .....  
 The Design Firm issuing this statement holds a current policy of Professional Indemnity Insurance no less than \$200,000\*.  
 The Design Firm is a member of ACENZ:

SIGNED BY ..... ON BEHALF OF .....  
(Design Firm)

Date ..... (signature).....  
Note: This statement shall only be relied upon by the Building Consent Authority named above. Liability under this statement accrues to the Design Firm only. The total maximum amount of damages payable arising from this statement and all other statements provided to the Building Consent Authority in relation to this building work, whether in contract, tort or otherwise (including negligence), is limited to the sum of \$200,000\*.

This form is to accompany **Form 2 of the Building (Forms) Regulations 2004** for the application of a Building Consent.  
THIS FORM AND ITS CONDITIONS ARE COPYRIGHT TO ACENZ, IPENZ AND NZIA

# Producer Statement – PS2– Design Review

IPENZ, NZIA, ACENZ



Building Code Clause(s).....

## PRODUCER STATEMENT – PS2 – DESIGN REVIEW

(Guidance notes on the use of this form are printed on page 2)

ISSUED BY: .....  
(Design Firm)

TO: .....  
(Owner/Developer)

TO BE SUPPLIED TO: .....  
(Building Consent Authority)

IN RESPECT OF: .....  
(Description of Building Work)

AT: .....  
(Address)

LOT ..... DP ..... SO .....

We..... (Design Review Firm) have been engaged by .....

to review the design documents for this project in respect of the requirements of Clause(s) ..... of the Building Code.

The Review is for  All  Part only of the design work prepared by ..... (Design Firm)

as described in drawings titled ..... and numbered

..... the specification, and other documents set out in the schedule attached to this statement according to which the building is proposed to be constructed.

The Review is in respect of ..... or per attached schedule.

The Review confirms that these aspects of the design are in accordance with:

Compliance Documents issued by the Ministry of Business, Innovation & Employment ..... OR

Alternative Solution as per attached schedule..... (verification method / acceptable solution)

.....

**On behalf of the firm undertaking this review**, on the basis of the review undertaken, and subject to:

(i) site verification of the following design assumptions .....

(ii) all proprietary products meeting their performance specification requirements;

**I believe on reasonable grounds** that a) the building, if constructed in accordance with the drawings, specifications, and other documents provided or listed in the attached schedule, will comply with the relevant provisions of the Building Code, and that b), the persons who have undertaken the review have the necessary competency to do so.

I, ..... am:  CPEng No. ....

(Name of Design Professional)

Reg Arch No.....

I am a Member of :  IPENZ  NZIA and hold the following qualifications: .....

The Design Review Firm issuing this statement holds a current policy of Professional Indemnity Insurance no less than \$200,000\*.

The Design Review Firm is a member of ACENZ :

SIGNED BY ..... ON BEHALF OF .....  
(Name of Design Review Firm)

Date: ..... (signature).....

Note: This statement shall only be relied upon by the Building Consent Authority named above. Liability under this statement accrues to the Design Review Firm only. The total maximum amount of damages payable arising from this statement and all other statements provided to the Building Consent Authority in relation to this building work, whether in contract, tort or otherwise (including negligence), is limited to the sum of \$200,000\*.

This form is to accompany **Forms 2 of the Building (Forms) Regulations 2004** for the application of a Building Consent.

PRODUCER STATEMENT PS2

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October 2013

# Producer Statement – PS4 – Construction Review

IPENZ, NZIA, ACENZ



Building Code Clause(s).....

## PRODUCER STATEMENT – PS4 – CONSTRUCTION REVIEW

(Guidance notes on the use of this form are printed on page 2)

ISSUED BY: .....  
(Construction Review Firm)

TO: .....  
(Owner/Developer)

TO BE SUPPLIED TO: .....  
(Building Consent Authority)

IN RESPECT OF: .....  
(Description of Building Work)

AT: .....  
(Address)

..... LOT..... DP..... SO.....

.....has been engaged by.....

To provide  CM1  CM2  CM3  CM4  CM5 (Engineering Categories) or  observation as per agreement with owner/developer

or  other ..... services

in respect of clause(s) ..... of the Building Code for the building work described in

documents relating to Building Consent No. .... and those relating to

Building Consent Amendment(s) Nos. .... issued during the

course of the works. We have sighted these Building Consents and the conditions of attached to them.

Authorised instructions / variations(s) No. .... (copies attached)

or by the attached Schedule  have been issued during the course of the works.

On by the basis of  this  these review(s) and information supplied by the contractor during the course of the works

and on behalf of the firm undertaking this Construction Review, I believe on reasonable grounds that  All  Part

only of the building works have been completed in accordance with the relevant requirements of the Building Consent

and Building Consent Amendments identified above, with respect to Clause(s) ..... of the Building Code.

I also believe on reasonable grounds that the persons who have undertaken this construction review have the necessary

competency to do so.

I, ..... am:  CPEng No. ....

(Name of Construction Review Professional)  Reg Arch No. ....

I am a Member of:  IPENZ  NZIA and hold the following qualifications: .....

The Construction Review Firm issuing this statement holds a current policy of Professional Indemnity Insurance no less

than \$200,000\*.

The Construction Review Firm is a member of ACENZ:

SIGNED BY ..... ON BEHALF OF .....

Date: ..... Signature:.....

*Note: This statement shall only be relied upon by the Building Consent Authority named above. Liability under this statement accrues to the Design Firm only. The total maximum amount of damages payable arising from this statement and all other statements provided to the Building Consent Authority in relation to this building work, whether in contract, tort or otherwise (including negligence), is limited to the sum of \$200,000\*.*

This form is to accompany **Forms 6 or 8 of the Building (Form) Regulations 2004** for the issue of a Code Compliance Certificate.

# Appendix Two – Information on Statutory Registers and Complaints

## Chartered Professional Engineers Register (CPEng)

The Chartered Professional Engineers of New Zealand Act 2002 (CPEng Act) requires rigorous competency testing when engineers apply to become registered. By statute, IPENZ, as the registration authority, is required to assess competence in professional engineering (across all fields of engineering) and to operate a complaints and disciplinary system for Chartered Professional Engineers. The Government's philosophy on occupational regulation is that quality marks with protected titles (such as CPEng) should be based on "current competence". This means even after professional engineers have successfully demonstrated the competence required for registration, they are still subject to ongoing assessments of competence to maintain their registration. CPEngs must also agree to be bound by CPEng rules, which include a Code of Ethical Conduct. As part of the Code, CPEngs must not misrepresent their competence, must only undertake engineering activities within their competence, and must not allow engineers whose work they supervise to breach either of these requirements.

The CPEng register may be found on the IPENZ website

## Complaints Processes

There are established processes for filing complaints against Chartered Professional Engineers, particularly for working outside of practice area or competence level and for breaches of their code of ethics. BCAs are well placed to observe the work of Chartered Professional Engineers. BCAs can and should play an important role by reporting to the relevant Registration Authority incompetent practice or unethical behaviour.

Information for lodging complaints about Chartered Professional Engineers is on the IPENZ website.



The Institution of Professional Engineers New Zealand Inc.  
*Pūtahi Kaiwetepanga Ngaio o Aotearoa*

PO Box 12 241, Wellington 6144, New Zealand  
**E** [ipenz@ipenz.org.nz](mailto:ipenz@ipenz.org.nz)      **W** [www.ipenz.org.nz](http://www.ipenz.org.nz)