



**LICENSED
BUILDING
PRACTITIONERS**
Building confidence

PRACTICE NOTE SUPERVISION

AUGUST 2017



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

New Zealand Government

INTRODUCTION

Undertaking supervision is an important role and should not be entered into unless you have considered the practical and legal implications of performing this function. This guidance has been written to assist Licensed Building Practitioners (LBPs) who are involved in undertaking supervision and sets out clear expectations about acceptable conduct when it comes to supervising others.

The Building Act 2004 (the Act) limits those who can carry out or supervise restricted building work (RBW). Only an LBP with the appropriate licence can carry out or supervise RBW.

This limitation ensures only competent practitioners carry out or oversee riskier work such as design or construction work to the weathertightness or primary structure aspects of houses and small-to-medium apartment buildings.

This limitation on scope of practice is common to other occupational licensing regimes in the sector such as those for electrical workers or plumbers, gasfitters and drainlayers.

To ensure the limitation on scope works in practice, RBW lets a licensed person supervise an unlicensed person. This means that:

- › unlicensed workers can upskill and develop on the job; and
- › the construction industry continues to operate with enough practitioners doing the work itself.

LBPs need to understand that different skills are needed for:

- › supervising other workers who are carrying out RBW; and
- › carrying out the RBW themselves.

This document is issued as guidance under section 175 of the Building Act 2004. While the Ministry has taken care in preparing the document it should not be relied upon as establishing compliance with all relevant clauses of the Building Act or Building Code in all cases that may arise. The document may be updated from time to time and the latest version is available from www.lbp.govt.nz

August 2017

SUPERVISION OF GENERAL BUILDING WORK

As a general rule anyone can carry out or supervise **building work**, but only an LBP can carry out or supervise **RBW**.

The Building Act 2004, in section 7, defines what it means to “supervise” building work:

Supervise, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work:

- (a) is performed competently; and*
- (b) complies with the building consent under which it is carried out*

As outlined above, a person doesn’t need to be an LBP to supervise builders doing work that is not classified as restricted building work. From a legislative point of view, the High Court decision, *Tan v Auckland Council*¹, supports this notion and clarifies the responsibilities of a person who will provide control, instruction or direction of others who are physically carrying out building work. The role of supervising is discussed in Justice Tompkins decision in the District Court in the case *Electrical Worker Registration Board v Gallagher*, where the Judge stated:

As is made apparent by the definition of “supervision” in the Act, that requires control and direction by the supervisor so as to ensure that the electrical work is performed competently, that appropriate safety measures are adopted, and that when completed the work complies with the requisite regulations. At the very least supervision in that context requires knowledge that work is being conducted, visual and other actual inspection of the work during its completion, assessment of safety measures undertaken by the person doing the work on the site itself, and, after completion of the work, a decision as to compliance of the work with the requisite regulations.

Put simply, if you are providing control, instruction or direction to others who are carrying out building work, or those working in other restricted areas, you are supervising them. Being a supervisor means you are responsible for making sure that the work is done competently and correctly to the relevant building consent. Where there is no building consent required the building work must still meet the Building Code.

If you are an LBP, and are supervising RBW, you have more responsibilities. These are discussed later in the document.

Remember: An LBP who supervises work that is not RBW may still be held accountable by the Building Practitioners Board (the Board) for issues they are responsible for.

¹ *Tan v Auckland Council* [2015] NZHC 3299, Brewer J available [here](#).

SUPERVISION OF RESTRICTED BUILDING WORK (RBW)

Only LBPs can carry out or supervise restricted building work. LBPs include those who are licensed through the LBP process, and those who are legally recognised as LBPs under other legislation (as listed in the table below).

LBPs can only supervise RBW that they are licensed to carry out themselves, the work an LBP supervises, depends on their licence type.

For example, an LBP with a carpentry licence:

- › can supervise non-LBPs doing carpentry RBW (e.g. fitting cladding, constructing structural framing or repiling a dwelling); but
- › cannot supervise non-LBPs doing blocklaying RBW.

WORK LBPs CAN SUPERVISE FOR EACH LICENCE CLASS

CLASS OR AREA OF PRACTICE	SCOPE OF SUPERVISION
Carpentry, Foundations, External Plastering, Bricklaying and Blocklaying, Roofing	These licence classes can supervise building work including RBW within their licence class and competence.
Design areas of practice 1-3	These licence classes can supervise all design work including RBW within their competence.
Site areas of practice 1-3	Building work not including RBW. May carry out RBW like any non-licensed person as long as they are supervised by an LBP with the appropriate/relevant licence.
DEEMED LBPS ²	
Chartered Professional Engineers	All design work including all Design RBW. Work as for 'site areas of practice 1-3' above.
Architects	All design work including all Design RBW.
Plumbers, Gasfitters and Drainlayers	These deemed LBPs can supervise external plastering and bricklaying and blocklaying for the purposes of penetrating a building's external envelope when undertaking plumbing, gasfitting and drainlayng work (e.g. installing a venting pipe). Roofing (unlimited, but practitioners have to work within their competency).

² Note: the 'Deemed LBP' provisions are limited to practitioners who are registered, licensed or otherwise recognised under another enactment. As a consequence, these individuals are answerable to the occupational licensing scheme they are licensed or registered under. Each scheme's regulations, guidelines and codes of ethics will outline specific requirements for providing adequate supervision.

As a general rule, licensed or registered persons have to work within their defined area of competence. Engineers have additional requirements for construction monitoring and onsite observation of their design and any assumptions made.

CAN AN LBP SUPERVISE ANOTHER LBP WHO HOLDS THE SAME LICENCE CLASS?

For the avoidance of doubt, an LBP cannot supervise other LBPs undertaking work in the same licence class. LBPs are legally entitled to carry out RBW and are individually accountable for the work they themselves produce.

LBPs do not need to know every minute aspect of their trade in order to obtain a licence, there is room for learning and continued development. To this end, LBPs can mentor other LBPs who hold the same licence to enable them to continue learning and developing. This is different from supervision of non-LBPs as both LBPs are still accountable for their work.

The LBP scheme is based on an individual accountability model, meaning that all LBPs who carry out RBW must provide a record of work (RoW) for any RBW they have carried out. This means that an LBP who carries out RBW is the appropriate individual to provide a RoW for that piece of work.

WHAT DOES GOOD SUPERVISION LOOK LIKE?

If you are an LBP supervising non-LBPs such as apprentices, labourers or hammer-hands carrying out RBW, you need to consider the matters in the table below. These guide what good supervision looks like and have been decided by Building Practitioner’s Board in complaint decision, **C2-01143**.

Ultimately, it is in the hands of the supervising LBP, to gauge and ensure the level of direction and control provided is right for the circumstance. It’s important to remember that the LBP supervising RBW is accountable for that work.

C2-01143 CONSIDERATIONS

MATTERS OF CONCERN	GUIDANCE AND CONSIDERATIONS TO TAKE ACCOUNT OF
<p>The type and complexity of the RBW to be supervised</p>	<p>Is the building work:</p> <ul style="list-style-type: none"> > complex > bespoke/architectural > midrange, or > simple <p>Are there particularly risky details that require a higher degree of oversight and instruction to construct correctly? E.g. complex roof intersections or flashing details.</p> <p>Are there any specific building consent conditions that indicate a greater degree of complexity or is there a greater risk of non-compliance present on site e.g. elements of specific engineered design requiring third-party oversight and verification.</p>
<p>The experience of the person(s) being supervised</p>	<p>How would you classify those being supervised:</p> <ul style="list-style-type: none"> > skilled > semi-skilled > low skilled <p>The latter typically require a greater degree of ‘direct supervision’ than skilled or experienced workers.</p>

MATTERS OF CONCERN	GUIDANCE AND CONSIDERATIONS TO TAKE ACCOUNT OF
The supervisors experience in working with the person being supervised and their confidence in their abilities	<p>Have you worked with the individual in the past? If so, do you have a good understanding of their skills and any relevant limitations?</p> <p>'Repeatability' is important. Where you have observed someone competently undertaking a task in the past it is more likely they will be able to do it again.</p> <p>Has their work been the cause of failed inspections in the past? If so, the adequacy of the supervision provided may be called into question.</p>
The geographic spread of the work being supervised	<p>When acting as a supervisor the physical separation of worksites is a limitation that requires careful thought and planning.</p> <p>Remote supervision is a viable option in certain circumstances, but actual time on site is essential to ensure quality and compliance is achieved.</p> <p>There is no generic or agreed number of sites that can be supervised by one LBP.</p>
OTHER PRACTICAL CONSIDERATIONS OUTSIDE C2-01143	
Sequencing	<p>Good supervision is about heading off problems before they occur. Using a step-by-step approach to those under supervision is always useful.</p> <p>Take account of supervision requirements in your work programme from the beginning. Providing the adequate levels of supervision to those onsite should not be a surprise during the construction phase.</p>
Timelines	Tight build programmes or critical path scheduling can impact supervision requirements. Be cautious of accelerated work programs that can often lead to unforeseen issues or rework which all require careful thought.
A booming construction market	A booming construction market can lead to unfamiliar faces on site and amplify the use of contract or unskilled labour, which can affect team continuity and depth of technical ability.
Workplace environment	<p>Conditions in the workplace affect the level of supervision required on any given day. It is important to consider things such as weather, safety (e.g. working at height), plant and tool use, and product or material selection.</p> <p>It is also equally important to be aware of the supervision requirements under health and safety legislation.³</p>
Communication	Where literacy or language barriers exist the supervisor needs to consider how this might impact achieving good quality and compliant outcomes onsite.

Good supervision requires a solid understanding of your co-workers skills, the complexity of work being performed alongside the right mix of control, direction and oversight.

³ Health and Safety at Work (General Risk and Workplace Management) Regulations 2016, Regulation 9 – Duty to provide information, supervision, training and instruction.

WHAT DOES POOR SUPERVISION LOOK LIKE?

The below items represent some common indicators where poor supervision has taken place:

- › failed Building Consent Authority (BCA) inspections can be a clear indicator of inadequate supervision. As a supervisor, the adequacy of your supervision may be called into question where an inspection (or a sequence of inspections) has failed
- › poor quality workmanship is a common marker of people working outside their competence and without sufficient support
- › rework is often a clear indicator that the wrong level of supervision has been applied. Instances where building work has been completed and later remediated could lead to concerns about the adequacy of the supervision applied
- › poor onsite health and safety records often point to lack of care and attention to detail
- › a disorganised and unclean site often points to poor onsite behaviour and a lack of good site management
- › when there is little or no quality assurance being carried out on site
- › reliance on the BCA to 'inspect in' quality rather than those onsite actively following quality assurance processes that promote quality building outcomes
- › poor sequencing of work resulting in rescheduling or postponed subcontractor work programmes
- › failure to meet progress milestones or handover targets are both indicators that work is not progressing to schedule which can be a marker for more systemic problems
- › when there are disgruntled staff or clients due to a lack of clear direction.

If you are acting as a supervisor and you are encountering the above-noted issues you should reconsider your approach. It is an offence to supervise building work in a negligent or incompetent manner, and you could be held to account.

DIFFERENT TYPES OF SUPERVISION

If you have to supervise non-LBPs, or work with LBPs without the relevant licence for the job, you need to follow the guidelines below. The guidelines give acceptable and recognised forms of supervision for those working in building and construction sector.

DIRECT SUPERVISION

Direct supervision is working one-on-one with the person you are supervising.

Typically, this type of supervision is for:

- › low skilled workers who are assisting you with a task for the first time; or
- › when you are completing complex tasks with those who are semi-skilled.

Direct supervision requires direct contact with the person being supervised while they are completing tasks. This means you maintain visual contact and/or are within earshot of those you are supervising.

Direct supervision is best used when:

- › The person being supervised has not shown a consistent ability to perform a task at the required standard
- › The person being supervised is new to a task or is untrained
- › The work is complex or contains variations to tasks that are usually performed as a matter of course. Work might include detailed design which requires frequent reference to the working drawings and specifications
- › There is a reasonable chance for unplanned events to arise that may be beyond the person's current ability.

EXAMPLE IN ACTION

A first year carpentry apprentice is installing timber weatherboards to a dwellings exterior for the first time. Direct supervision should be adopted here as the initial set-out and overall task would be considered complex for a new trainee.

GENERAL SUPERVISION

General supervision is the most common form of supervision an LBP will undertake. This requires face-to-face contact on a regular or periodic basis. The supervisor must continue to provide direction and oversight of tasks although not necessarily always in close proximity. However, the supervisor must be contactable for assistance or instruction when required.

General supervision should be used when:

- › the co-worker has previously demonstrated the ability to perform a task with limited oversight and direction
- › the co-worker knows (has demonstrated) an ability to seek clarity or assistance when it is needed
- › on-the-job training has been undertaken in the past, which has resulted in a compliant outcome.

EXAMPLE IN ACTION

An unlicensed skilled co-worker is installing a section of long-run metal roofing on a medium size apartment complex. The supervising LBP is on site, but is working across three different sections of roof. The LBP is utilising a general level of supervision because they have assessed the complexity of the work and knows the skills of the individuals doing the work. The LBP will periodically check and assist with the work as it proceeds.

REMOTE SUPERVISION

Remote supervision may be used where an LBP is running one or more jobs and cannot be present on site at all times. Remote supervision may be appropriate where the following conditions are present:

- › those being supervised are skilled workers (non-LBPs) and have demonstrated the ability to undertake certain tasks without constant monitoring, oversight and direction
- › the supervising LBP has identified specific tasks when he or she is needed on site to provide direction or oversight
- › lines of communication (phone or using other electronic media) are in place so that advice and assistance can be offered when and where required

A connection to the site, as well as, a regular presence onsite is a must. Remote supervision means only certain tasks can be undertaken without direct or general levels of supervision being present.

EXAMPLE IN ACTION

An LBP has three projects of differing complexity on the go at the same time. One of which is a simple renovation that includes a small amount of restricted building work. The workers on that site are well known to the LBP and are highly skilled. The LBP has adopted remote supervision and touches base with co-workers by phone or in person on a daily basis.

DESIGN SUPERVISION

The application of design supervision differs little in practice to the principles discussed earlier in this guidance document. Design supervision can take the same forms, with modifications, and it is worth mentioning that there is a quality assurance role that is not supervision.

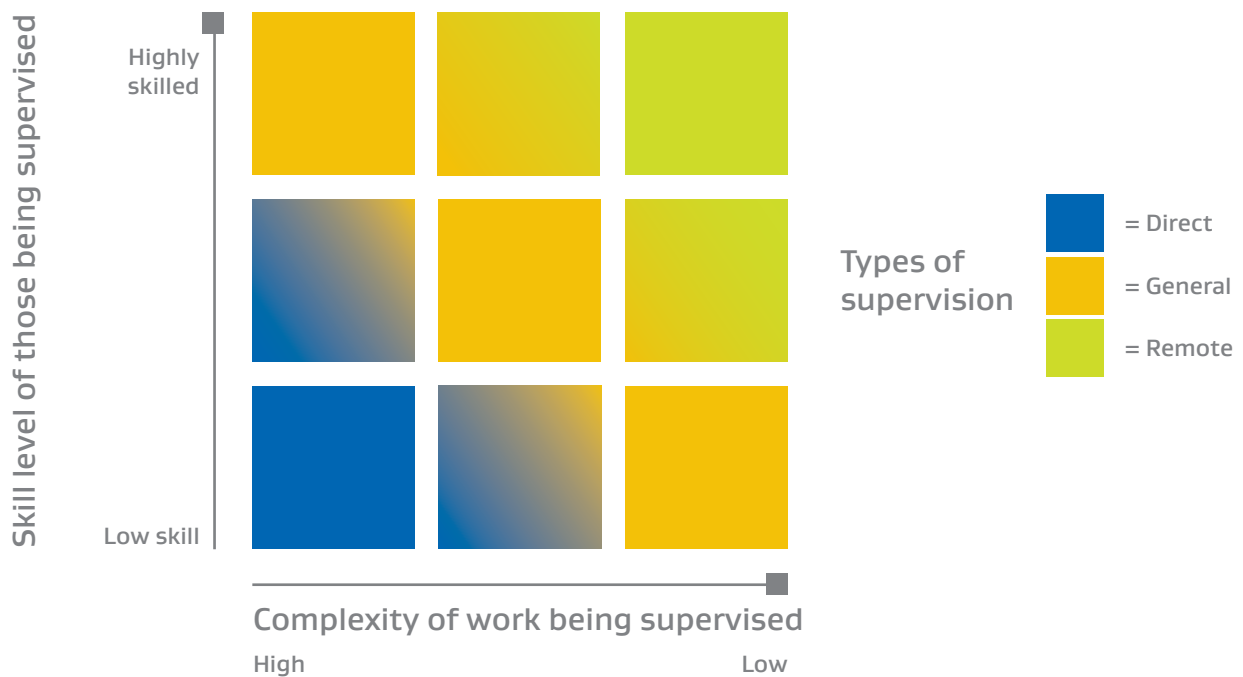
- › Direct or general design supervision – This may be working with a new designer to supervise their work and practices and to educate them on appropriate processes. An example of this playing out in practice would be a design LBP supervising a new graduate undertaking design RBW in the same design office.
- › Remote design supervision – This may be where a competent but unlicensed designer requires an LBP to supervise their work and provide a certificate of work (CoW) in order to submit a building consent application. In this instance the non-LBP may not work in the same office as their LBP supervisor, but the non-LBP is a skilled technician and well known to the supervising LBP. Supervision in this instance is provided primarily by phone and via email. Given the supervising LBP will be providing a statement about building code compliance as part of their CoW, it is essential the supervising LBP is involved in dialog with the non-LBP throughout the design process, that is, from conception through to establishing compliance with the final set of working drawings submitted for building consent.
- › Quality assurance – This may be where a licensed designer has a set of drawings reviewed by a colleague to check for any errors or omissions, but where that designer will be submitting the plans with their own certificate of work. Please note that this is not ‘supervision of restricted building work’ as the primary designer holds a licence.

As a Design LBP you should be mindful of the following:

- › ensuring the level of supervision being provided is appropriate for the given situation
- › when completing a CoW, you must be satisfied that all restricted building work is building code compliant
- › as a designer you may choose to utilise different forms of supervision e.g. direct, general and remote, but the level of supervision being provided should take heed of the considerations outlined in Building Practitioner Board decision C2 01143
- › BCA requests for information (RFIs) will be directed at the license holder and as such you may be held to account for substandard design work that you have supervised.

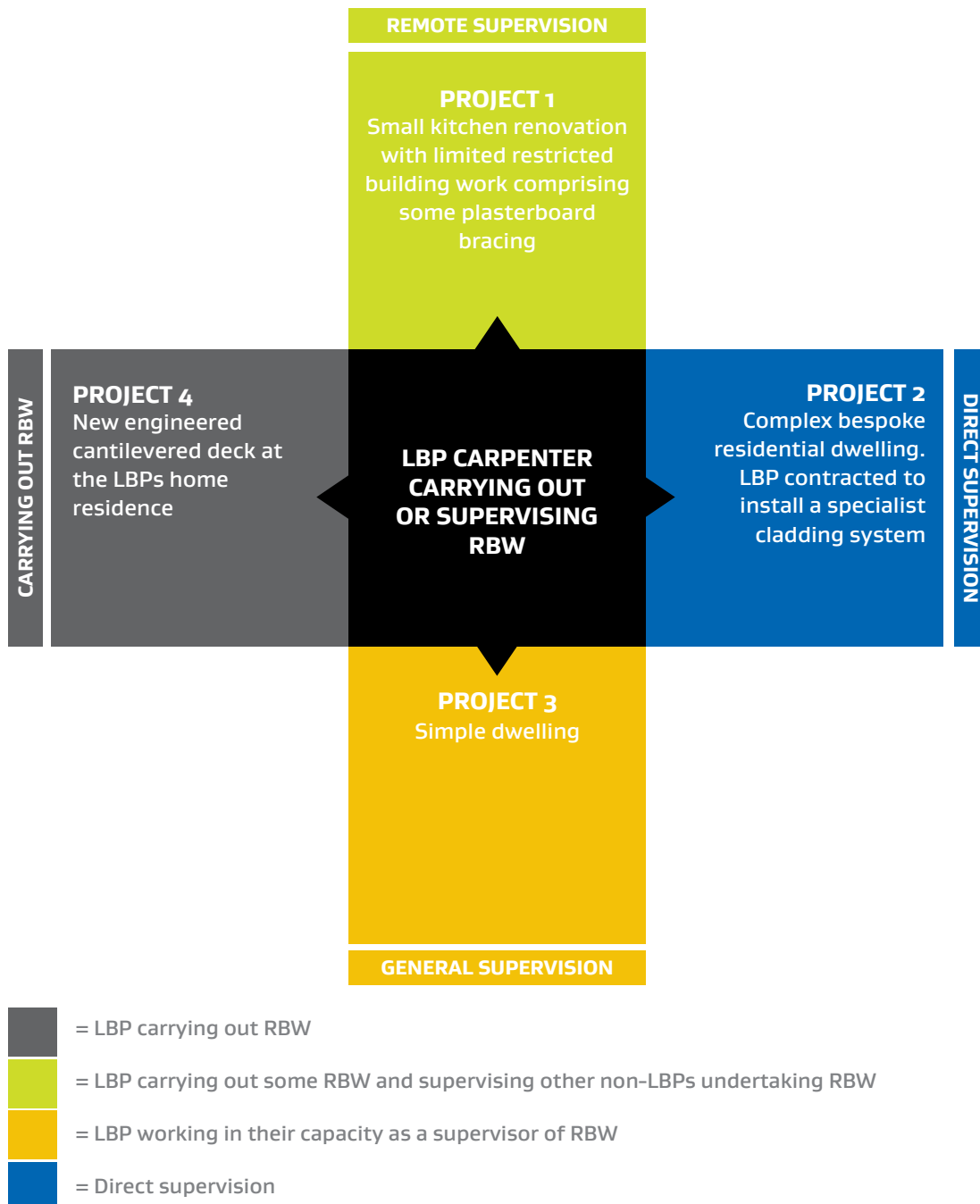
RISK MATRIX TO ESTABLISH THE CORRECT TYPE OF SUPERVISION

The below diagram provides a risk-based view of how supervision requirements should be assessed by the supervising LBP. In simple terms the figure provides direction on what type of supervision is appropriate once the skills of the individual(s) being supervised, and the complexity of the work being undertaken, have been assessed.



SUPERVISION IN PRACTICE

The below diagram illustrates how some of the previously discussed considerations might play out on a range of sites for one LBP. The principles outlined below could equally apply to LBPs providing supervision in the design office.



Note: a record of work must be completed in accordance with the role the LBP performed (eg carried out or supervised).

If there are other LBPs onsite these individuals must provide a record of work (RoW) for the RBW they have undertaken or supervised. For example if an LBP roofer is installing a membrane roof they must provide a RoW for this work and identify if they carried out the work or supervised others involved in performing the RBW.

RECORDS AND CERTIFICATES OF WORK

When completing a record of work (RoW) or a certificate of work (CoW) after completion of RBW, it's crucial that the LBP accurately completes the form to outline what function was carried out or supervised. If a combination of actual work and supervision was carried out, it should state just that. The prescribed form has plenty of room to describe what was done in detail so that years from now the record clearly outlines what role the LBP had on site. A RoW will be held on file at the council for the life of the building it relates to. Therefore, having an accurate record should be in the best interests of an LBP. You are unlikely to remember what you did on a particular job years from now so it's important to fill out these forms accurately.

The RoW below that shows two portions of RBW where an LBP both carried out work and supervised RBW. As indicated below you need to tick the right box and add in sufficient detail.

RECORD OF WORK THAT IS RESTRICTED BUILDING WORK		
PRIMARY STRUCTURE		
Work that is restricted building work	Description of restricted building work	Carried out or supervised
Tick <input checked="" type="checkbox"/>	If necessary, describe the restricted building work.	Tick <input checked="" type="checkbox"/> whether you carried out the restricted building work or supervised someone else carrying out the restricted building work.
Foundations and subfloor framing <input type="checkbox"/>		<input type="radio"/> Carried out <input type="radio"/> Supervised
Walls <input checked="" type="checkbox"/>	<i>- Stood up and plumbed pre-nailed frames - Structural connections fitted as detailed on plan</i>	<input checked="" type="checkbox"/> Carried out <input checked="" type="checkbox"/> Supervised
Roof <input checked="" type="checkbox"/>	<i>- Laid out trusses and fixed pulins and connections as detailed on plan</i>	<input checked="" type="checkbox"/> Carried out <input checked="" type="checkbox"/> Supervised
Columns and beams <input type="checkbox"/>		<input type="radio"/> Carried out <input type="radio"/> Supervised
Bracing <input type="checkbox"/>		<input type="radio"/> Carried out <input type="radio"/> Supervised
Other <input type="checkbox"/>		<input type="radio"/> Carried out <input type="radio"/> Supervised

OTHER MATTERS

SITE LICENCES

Though not directly linked to carrying out or supervising RBW, the site licence is a critical part of the overall scheme. Holders of a site licence are practitioners who are recognised as possessing specific skills that relate to coordination, oversight, organisation and managing building projects. The site licence is an indicator that you have the skills to manage personnel and provide technical site supervision within the scope of your licence. The site licence, in the current state, undertakes supervision of general building work, as opposed to supervision of unlicensed people undertaking restricted building work.

BUILDING INSPECTIONS

While it's not a mandatory requirement for an LBP to attend building consent authority (BCA) inspections on site, it is best-practice. Remember that a failed BCA inspection could reflect badly on you as the supervising LBP.

It is the BCAs role to outline inspection requirements as part of the building consent process; however it is not their role to determine supervision requirements.

KEEP YOURSELF AND OTHERS SAFE

Being an LBP is an important role, which comes with both responsibility and accountability. Supervision is about good practice and staying safe, and making sure we build dry, warm and fit-for-purpose buildings for New Zealanders. A responsible LBP would not, for example, leave a first year carpentry apprentice to install a complex drained and vented cavity system unaided or solo on a new dwelling.

Failing to meet the requirements of this practice note, would leave that LBP fairly open and answerable to others, including the Building Practitioners Board.



**LICENSED
BUILDING
PRACTITIONERS**
Building confidence

Published in August 2017 by the
Ministry of Business, Innovation and Employment
PO Box 50041
Porirua 5240
Wellington, New Zealand

This document is also available on the LBP website:
www.lbp.govt.nz