

24 April 2019

NZ Transport Agency
Private Bag 11777
Palmerston North 4442
New Zealand
www.nzta.govt.nz

JOE BLOGGS
99 HORSESHOE ROAD
WEST HARBOUR
AUCKLAND 0618

Dear Sir/Madam

Drawbar immediately revoked

Plate number	VIN	Year
{{Plate}}	{{Vin}}	{{Vehicle Year}}

We are writing to let you know that due to safety concerns, we have revoked the Record of Determination with LT400 number {{Certificate Number}} for the drawbar on your {{Vehicle Make}} {{Vehicle Model}}, plate number {{Plate}}.

This means that you cannot use the drawbar until you have had it recertified by a Heavy Vehicle Specialist Certifier (HVSC) that has 'HVET' authorisation – a list is available at www.nzta.govt.nz/HVET-certifiers

The exception is that you may use the drawbar on your trailer/vehicle once for the sole purpose of travelling once for inspection and recertification, so long as the trailer/vehicle is not carrying any load.

In addition, you are eligible to *apply* for a three-month exemption during which you may continue to use the drawbar on your vehicle, if the exemption is granted.

A formal notice of revocation is enclosed and **takes effect immediately**.

Option to apply for a three-month exemption – what you need to do

You are eligible to apply for a three-month exemption within two weeks of receiving this letter. To apply, please fill out and return the enclosed 'Application for exemption form' (CA20c) by email to chuexemptions@nzta.govt.nz.

The exemption application form requires you to confirm that you have checked the drawbar above as per the instructions on the safety alert we issued on 5 April 2019 (available at www.nzta.govt.nz/patrick-chu), and there are no signs of deterioration, as detailed in the safety alert.

If your application is accepted, the three-month exemption supersedes the immediate revocation above and we will email the exemption notice to you. Please provide your email address on the form so we can ensure you receive the exemption as soon as possible.

If your application for an exemption is granted, there will be a number of mandatory conditions that you must read carefully, including that:

- the drawbar can only tow 75% of its maximum towed mass
- the drawbar must be cleaned and then inspected daily
- that the exemption notice must be kept with the trailer/vehicle that has the affected drawbar at all times – we recommend you keep it in the cab of the towing vehicle.

Inspection required within 21 days if exemption granted – what you need to do

If you are granted the exemption, you must have the drawbar inspected within 21 calendar days of receipt of this letter, by a testing station/original manufacturer/manufacturing certifier/competent person at your regular maintenance workshop (the drawbar must be cleaned before being presented for inspection).

- a) The inspecting person must fill out the attached 'Revoked drawbar or drawbeam inspection form'. Please then email a copy of the inspection form to chuexemptions@nzta.govt.nz before the 21 days expires. If we don't receive your inspection form by the due date, or it fails the inspection, your three-month exemption will be revoked.
- b) Please email payment information (as detailed on the back of the inspection form) to chupayments@nzta.govt.nz so we can reimburse your 21-day inspection cost.
- c) You must keep a copy of the inspection form with the exemption notice. If you are asked to present your exemption notice after the 21-day period and there is no signed and completed inspection form, your exemption will be deemed to have been revoked.

When the exemption (if granted) expires, you must have the drawbar recertified in order to use it again.

Please note that you may not use your drawbar unless you receive a signed exemption from the Transport Agency by return email. The exception is, as detailed above, that you may use the drawbar once for the sole purpose of travelling for inspection and recertification, so long as the trailer/vehicle is not carrying any load.

If your application for a three-month exemption is not accepted, your drawbar remains immediately revoked as outlined at the beginning of this letter.

Background to the decision to revoke

In October 2018, Patrick Chu of Transport & Structure Limited was suspended from issuing certifications as a Heavy Vehicle Specialist Certifier and Inspecting Organisation respectively.

Following engineering analysis undertaken by a team of experts at the Transport Agency, in April 2019 we issued a Safety Alert regarding drawbar and drawbeam certifications issued by Mr Chu. This analysis showed design deficiencies not compliant with the applicable standards.

Following careful consideration, we are satisfied on reasonable grounds that the vehicle does not comply with the Land Transport Rule: Heavy Vehicles 2004. Extracts of the relevant legislation are appended to this notice. The full legislation can be found at: www.legislation.govt.nz.

With the safety of you and other road users in mind, we have decided that it is necessary to take action and revoke the Record of Determination. This is the minimum action necessary in the interests of public safety.

Financial support

Although the Transport Agency isn't legally liable to do so, we've agreed to provide financial support to affected vehicle owners, in order to lessen the impact of revocations of certifications issued by Mr Chu.

We will cover the costs of inspection and recertification, except where the certification of your drawbar is about to expire anyway.

In addition, we will cover the cost of any necessary repairs or replacements required as a result of Mr Chu's work if:

- (a) you purchased the vehicle after the drawbar had been certified by Mr Chu; or
- (b) Mr Chu was responsible for both designing and certifying the drawbar; or
- (c) The drawbar now requires additional work that would not have been required at the time it was certified by Mr Chu but is now required as a result of his work.

The HVSC recertifying the component will provide information to help us identify the above.

If your drawbar is due to expire within the next 14 weeks, we will not cover costs as these would naturally be incurred as part of the standard recertification process.

Where we do cover the cost of inspections, recertification and/or any necessary repairs or remedial work for your drawbar, we may (where appropriate) seek to recover these costs from Transport & Structure Limited and/or Patrick Chu, who provided the certification, and anyone else responsible. By filling in the necessary form

[DRAW1], you unconditionally and absolutely assign your rights to the Transport Agency against Transport & Structure Limited, Patrick Chu and any other responsible parties to recover these costs.

What you need to do so we can cover the costs for you.

We will reimburse you for costs incurred if work completed meets the conditions mentioned above under 'Financial support'. If these conditions are not met, your application for reimbursement may be declined.

Please complete the enclosed payment application form [DRAW1] or you can download the form from the financial support page on our website at www.nzta.govt.nz/Patrick-Chu.

- Please provide the form to the HVSC who is responsible for recertifying the towing connection, so they can complete the HVSC section of the form and return the form to you.
- Sign the vehicle owner declaration – this must be signed by the vehicle owner or a person authorised to sign it on their behalf.
- Email the completed form and required documentation to chupayments@nzta.govt.nz or post it to the address on the form.

We encourage you to include all invoices from parties completing the works with one reimbursement application form.

Please note that in some circumstances, information provided by the HVSC may result in the Transport Agency not covering repair or replacement costs.

We are continuing to investigate Patrick Chu and further action may be required for some vehicles. Affected customers will be contacted directly.

To view all related information including previously issued letters, please visit our website: www.nzta.govt.nz/Patrick-Chu or call us on 0800 699 000.

Thank you for prioritising the safety of yourself, your driver and all other road users by promptly having your towing connection recertified.

Yours faithfully,

Brett Aldridge
Regulatory Compliance Lead
NZ Transport Agency

NOTICE AFFECTING THE FOLLOWING VEHICLE

Plate number	VIN	Year
{{Plate}}	{{Vin}}	{{Vehicle Year}}

Notice of revocation of Record of Determination (LT400 number {{Certificate Number}})

Pursuant to clause 11.3(1)(a) and (b) of the Land Transport Rule: Vehicle Standards Compliance 2002 and acting under delegated authority from the NZ Transport Agency, I, Brett Aldridge, Regulatory Compliance Lead, revoke the Record of Determination (LT400 {{Certificate Number}}) issued in respect of the drawbar fitted to the heavy vehicle with registration {{Plate}} specified in the table above.

I have made this decision because I am satisfied on reasonable grounds that the Record of Determination in respect of the heavy vehicle drawbar does not comply with applicable requirements and was issued on the basis of an incorrect determination.

Notice exempting vehicle from drawbar certification requirement under specified exemptions granted

Pursuant to section 166 of the Land Transport Act 1998, and acting under delegated authority from the NZ Transport Agency, I, Brett Aldridge, Regulatory Compliance Lead, being satisfied as to the matters in section 166, exempt the vehicle specified in the table above from the requirements specified in Schedule One below, upon the conditions specified in Schedule Two below.

Schedule One

Land Transport Rule: Heavy Vehicles 2004: clause 4.5 [Note: these are the legal requirements that a drawbar fitted to a Heavy Motor Vehicle meets certain standards.]

Schedule Two

1. This exemption may be revoked at any time by the Transport Agency by notice in writing to the registered person and/or operator in respect of the relevant vehicle.
2. This exemption allows the specified vehicle to be used unladen on a road solely for the purpose of bringing it into compliance.
3. The towing connections on both the towing vehicle and trailer must be cleaned and visually inspected prior to the journey and there must be no visible signs of component failure.
4. Operation of the vehicle with any load and/or for a purpose other than bringing it into compliance nullifies this exemption in its entirety.
5. If the vehicle is sold with the drawbar still fitted and the drawbar has not been recertified, a copy of this notice and attached letter must be provided to the purchaser.
6. Unless earlier revoked, **this exemption expires at midnight on 15 November 2019.**
7. A copy of this notice must be carried with the vehicle being operated in accordance with this exemption and be produced to an enforcement officer upon demand.

Dated at Wellington this {{date}} day of {{Month}} 2019.

APPLICABLE LEGISLATION

Land Transport Rule: Heavy Vehicles 2004

4.5 Drawbars

4.5(1) A drawbar fitted to a vehicle used in a combination must, unless 4.2, or 4.5(2) applies, comply with NZS 5446.

4.5(2) A drawbar fitted to a vehicle that, before 1 February 1989, was certified for compliance with the Recommended Practice for Towing Connections of the New Zealand Truck-Trailer Manufacturers' Federation in Schedule 3 must, by the date of issue of the first certificate of fitness issued on or after 1 April 2006:

(a) comply with New Zealand Standard 5446: 1987, Code of Practice for Heavy Motor Vehicle Towing Connections: Drawbar Trailers; or

(b) be replaced with a drawbar that complies with New Zealand Standard 5446: 1987, Code of Practice for Heavy Motor Vehicle Towing Connections: Drawbar Trailers.

4.5(3) A telescopic drawbar must have endstops or a secondary locking device to prevent separation if the primary locking device fails.

4.5(4) For a pole trailer that carries its load as a rigid single span secured to both the towing vehicle and the pole trailer, the maximum towed mass of the drawbar must be equal to or greater than the unladen mass of the pole trailer, and the certification plate attached to the drawbar must state that the maximum towed mass applies only when the trailer is unladen.

4.5(5) A drawbar, fitted to a vehicle, that is modified or repaired on or after 1 April 2005 must comply with NZS 5446

Land Transport Rule: Vehicle Repair 1998

2.1 General safety requirements

2.1(1) A repair to a vehicle, its structure, systems, components or equipment, must restore the damaged or worn vehicle, structure, system, component or equipment so that they are within safe tolerance of the state of the vehicle, structure, system, component or equipment when manufactured.

2.2 Repair methods

2.2(1) In repairing a vehicle to comply with 2.1, a repairer must use a suitable repair method that takes into account the following:

(a) the date of manufacture of the vehicle;

(b) the class, make and other relevant characteristics of the vehicle;

(c) the approved vehicle standards with which the vehicle is required to comply;

(d) the existence of relevant manufacturers' recommendations and alternative methods;

(e) the material specifications used for construction of the vehicle, structure, systems, components or equipment;

(f) the compatibility of the intended repair process with materials specifications.

Land Transport Rule: Vehicle Standards Compliance 2002

11.3 Revocation of evidence of vehicle inspection, conditional permits, certificates of loading, and Records of Determination

11.3(1) The Agency may revoke, by giving written notice to a vehicle's operator, evidence of vehicle inspection or a conditional permit or a Record of Determination issued under this rule if the Agency is satisfied, on reasonable grounds, that:

(a) the vehicle does not comply with applicable requirements; or

(b) the evidence of vehicle inspection or permit or Record of Determination was issued on the basis of an incorrect determination