

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}}.

We have, however, granted you a six-month exemption, expiring at midnight on 30 October 2019, during which you may continue to use your drawbar subject to the conditions set out in the exemption in the attached revocation notice.

This means that you can continue to use your drawbar for another six months, provided you only tow up to 75% of the maximum towed mass for the drawbar, and provided you comply with the other requirements set out in the exemption in the attached revocation notice. These conditions include that:

- a) you must inspect the drawbar daily or before each use
- b) the drawbar must be cleaned before each inspection.

This also means that you will be able to renew the vehicle's Certificate of Fitness without having the drawbar recertified up until 30 October 2019. If you renew your Certificate of Fitness without the drawbar being recertified, however, you won't be able to use the drawbar once the exemption has expired until it is recertified, despite having a COF.

Once the exemption expires, you must have the drawbar recertified before you can use it again. It must be recertified by a Heavy Vehicle Specialist Certifier (HVSC) that has 'HVET' authorisation – a list is available at www.nzta.govt.nz/HVET-certifiers

Please note that you must comply with all of the conditions set out in the exemption in the enclosed revocation notice. If you do not, the Transport Agency will revoke the exemption.

When the exemption expires, you must cease to use the drawbar immediately, unless it has been recertified by an appropriately qualified HVSC.

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

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 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 the drawbar expires within six months, 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.]

Land Transport Rule: Vehicle Standards Compliance 2002: clauses 6.4(1)(e), 6.5(1)(d), 6.5(1)(e), 6.5(2), 7.2(vi), 7.4(1)(d), 7.5(1)(b), 7.5(1)(c) and 7.5(2). [Note: these are the legal requirements that a drawbar fitted to a Heavy Motor Vehicle must be certified before a Certificate of Fitness can be issued.]

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(s).
2. The drawbar may only be used to tow up to 75% of the maximum towed mass of the drawbar.
3. The drawbar must be inspected by you or the vehicle operator daily and/or immediately prior to each use, and inspected in accordance with the guidance in the safety alert issued by the Transport Agency on 5 April 2019 (available at www.nzta.govt.nz/patrick-chu). In the event any type of deterioration described in the safety alert is identified on the component, use of the drawbar must cease immediately.
4. The drawbar must be cleaned prior to each inspection described at 3 above.
5. This exemption applies only to the extent necessary to allow the vehicle(s) specified above to be used on a road without a current Record of Determination for the drawbar, when the vehicle is towing in accordance with the terms of this exemption. Operation of the vehicle other than in accordance with the conditions of this exemption, nullifies this exemption in its entirety.
6. 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.
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.
8. Unless earlier revoked, **this exemption expires at midnight on 30 October 2019.**

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