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# **Low volume vehicle certification review**

## **Tailored certification processes – submissions summary and responses**

November 2016

## Purpose

This document provides a summary of submissions received on the proposed processes for tailoring Low Volume Vehicle (LVV) certification processes to risk, and responds to the main submission themes.

Issues raised by only one or two submitters are not addressed in this document. If you would like any additional information or have a specific issue that is not addressed in this document, please email us at [lvreview@nzta.govt.nz](mailto:lvreview@nzta.govt.nz)

## Background

The NZ Transport Agency has proposed some changes to the existing LVV certification process, in order to streamline the process for lower-risk modifications. The proposed changes focus on vehicles that are currently required to undergo LVV certification, but are lower risk because:

- they've been produced in a commercial, production-based setting with quality controls in place, or
- they've already met appropriate overseas standards.

The proposed changes included:

- providing an alternative way for commercial modifiers to achieve LVV certification for production-based vehicle modifications (sometimes referred to as 'type certification'), and
- allowing some imported modified vehicles to be excluded from LVV certification in New Zealand, if they've already met appropriate standards overseas.

The intention of the proposed changes is to make it quicker and easier to get lower-risk modifications certified, creating benefits for commercial modifiers and importers of modified vehicles.

We carried out public consultation on the proposed changes from 9 to 30 September 2016. We distributed two discussion documents outlining the proposed changes, and two Questions & Answers (Q&As) documents, by email to around 100 groups and individuals who could be impacted by the proposed changes, or who have previously expressed an interest in being kept updated about the LVV review. We also posted the discussion document and Q&As on our website where they were available to the general public. Thirty-three submissions were received on the two proposals.

## Key feedback received and Transport Agency response

The following section summarises the key pieces of feedback received on the proposed changes, and provides a response to each issue raised.

### Imported modified vehicles

**There needs to be a way for LVV certifiers, WOF certifiers, Police and consumers to know which modifications were accepted as being covered by the overseas approval system at the time of the vehicle's entry certification, and whether any further modifications have been made since being entry certified. This may also include any modifications that may have been made to the vehicle overseas, after the overseas approval was issued but before it was imported to New Zealand. Some submitters felt that the LVV plate (or an equivalent label) should be retained for imported modified vehicles.**

We have noted the widespread support for being able to identify the specific modifications a vehicle has undergone, and reviewed the risks and issues associated with this feedback. As a result, we have added a step to the proposed process that requires entry certifiers to record the specific modifications in the inspection database (LANDATA) as part of the entry certification process. This information will be based on both the details in the overseas approval documentation and on a visual inspection by the entry certifier. Future users of this information who have access to LANDATA will be able to view the modification details in the IVCERT screen, and users who do not have access to LANDATA will be able to contact our contact centre to confirm this information. We are also considering an alternative, web-based system in which this information could be recorded in future, which would be made available more widely than LANDATA and ensure that all users of this information can access it easily.

We decided **not** to require an LVV plate or equivalent label to be issued to these vehicles, as the additional time required to issue and attach this would mean a less streamlined process than intended. We will monitor all vehicles that enter the country under the new process and will continue to refine the process in future, if needed.

**Certain requirements under New Zealand's LVV standards are not expressly covered by European Whole Vehicle Type Approval (ECWVTA) and there is not a one-to-one correspondence between European standards and New Zealand standards.**

Our decision-making process for accepting approvals from any given country includes consideration of how closely their standards meet those in New Zealand. Where there is no direct equivalence in requirements between the two countries, we must be satisfied that the overall process results in a safe vehicle before we will accept that country's approval. This brings the process for approved modified vehicles in line with that of production (non-modified) vehicles imported to New Zealand.

We are satisfied that vehicles with ECWVTA meet appropriate and relevant safety requirements, and have therefore decided that we will accept ECWVTA as an alternative to LVV certification.

**Some overseas jurisdictions do not have enough consistency in their process for their approvals to be reliable, so they should not be accepted in this process.**

Our decision-making process for accepting approvals from any given country includes consideration of how consistent and reliable their approval system is. Before we accept approval from another country, we must be satisfied that the overall process and the documentation issued

with the vehicle can be relied upon to confirm that a vehicle is safe in every case. If we are not satisfied of this fact then we will not accept approvals from that country, or may accept their approvals only in limited or specific circumstances. One possible example could be vehicles modified with Original Equipment Manufacturer (OEM) support and backing.

We are satisfied that the overall process for approving vehicles under the ECWVTA is consistent and reliable, and have therefore decided that we will accept ECWVTA as an alternative to LVV certification.

**Some vehicles that are certified in accordance with the United Kingdom (UK) small series national type approval have modifications that do not meet current New Zealand standards and there is therefore a cost to bring these vehicles into line with local certification requirements.**

We intend to research the UK small series national type approval system in the near future and assess its suitability for inclusion in this process. As detailed above, we will only accept approvals under this system if we are satisfied that the overall process results in a safe vehicle.

**The proposed process could create disparity between modified vehicles imported from overseas and vehicles modified in New Zealand. Local vehicle modifiers may not be able to compete with imported modified vehicles on price, as they will incur additional costs in order to comply with local certification requirements. New Zealand-based modifiers should be entitled to modify their vehicles to overseas standards as an alternative to LVV certification.**

The purpose of the proposed process is to remove the additional costs imposed on importers of approved vehicles modified overseas. The cost of certifying modifications overseas is factored into the purchase price, and requiring the vehicle to go through further LVV certification in New Zealand unnecessarily adds to the cost of importing the vehicle when acceptable standards have been met overseas. We currently have no plans to change certification requirements for vehicles modified in New Zealand.

**The skills and knowledge of the entry certifiers may be not be adequate to identify all the modifications made overseas and/or to interpret the documentation related to overseas modifications.**

Entry certifiers make daily decisions about the condition of a vehicle and validate that it matches the documentation provided. The changes being implemented are in line with the role that entry certifiers currently perform. In implementing this change, we have provided reference material for entry certifiers, such as samples of export documentation and approval plates/labels, to further assist them in identifying and validating overseas approvals.

**Will there be any process to track modified vehicles that enter New Zealand under the proposed process, to monitor them and ensure their fitness for New Zealand roads? If a modification has been carried out overseas and is found to be substandard, who will cover the remedial action, as the overseas modifier carries no liability in New Zealand? What will the recall process be if things go wrong?**

Details of modified vehicles imported under the new process will be recorded in our inspection database in a way that will make them easily identifiable. This will allow us to track, monitor and report on them over time, and note any issues that may arise.

In terms of who would be liable for any remedial action, the Transport Agency understands under New Zealand consumer law, the seller of a vehicle that is sold as compliant has responsibility for complying the vehicles if it is later found that the vehicle was not compliant. In terms of vehicles

imported subject to a recall, again this is a question of consumer law. If issues arise relating to the safety of a particular type of imported modified vehicle, the existing [vehicle recall process](#) will apply.

**No substantive cost- benefit analysis has been conducted by the Transport Agency for this proposal to fully enumerate the costs and benefits.**

The new process is an enabling change that is principle-based. The existing process of obtaining LVV certification on imported modified vehicles will also remain in place. Individual vehicle importers will need to do their own calculations to determine if purchasing these vehicles makes economic sense for them and which entry and certification option to use.

**There needs to be clarity around vehicles being further modified in New Zealand. Disability vehicles may require further modification or adaptation for the end user or motorhomes may also require additional seats or seatbelts fitted. Will these vehicles require certification for all of the modifications or just the modifications carried out in New Zealand?**

The overseas approval will cover only the modifications certified under the overseas system. Any modifications made after the overseas approval was issued will require LVV certification in New Zealand, following the existing process. This is in line with the current situation for production vehicles imported to New Zealand, and vehicles certified under the existing LVV system and then further modified.

## Type certification

**The process for confirming the design and build of the first vehicle, and therefore its fitness to be on the road, must be held to highest standards to ensure these vehicles are no less safe than those approved under the existing system – including mitigating the risk of human error in the first certification missing a critical flaw, and this being replicated in subsequent vehicles. Drawings, calculations and test results should form part of the approval process, and there needs to be a recall process if things go wrong.**

The role of the LVV certifier is to ensure the vehicle they are certifying meets the required standards. The process for certifying the first vehicle of a 'type' will involve the same inspection as a standard LVV certification. The process for being approved to perform type certifications will be separate from the vehicle certification process, and will include a requirement to provide intended vehicle design details such as drawings, sketches, jigs and any calculations or test results.

**Who is liable if a non-compliant or non-conforming vehicle is type-certified? What liability will the original certifier who approved the design have, versus the modifier who performed the type certification?**

Legal liability will not change from what it is currently. The LVV certifier will certify that the first vehicle built to the design meets the LVV standards, and therefore any other vehicles modified in exactly the same way will also meet LVV standards. The LVV certifier is responsible for ensuring the vehicle meets the required standards. All LVV certifiers are currently required to hold professional indemnity insurance, to cover any allegations of negligence or breach of duty in the course of their work in certifying modified vehicles.

The commercial modifier is responsible for ensuring that each vehicle is built to the design. New Zealand consumer legislation will also apply to the vehicles produced by the commercial modifier and the modifier will therefore be responsible for the design and modification of those vehicles.

**What will be the criteria for modifiers to be eligible for type certification? How will the approval process be managed and resourced? You should also consider additional eligibility criteria such as a Code of Conduct, and a requirement to provide a reference, as this is in line with other similar appointment processes run by the Transport Agency.**

In order to be approved for type certification, the modifier will be required to:

- have in place an appropriate recognised Quality Management System (QMS), which is audited by a recognised third party, and
- hold public liability and professional indemnity insurance sufficient to cover the activities they carry out, and
- meet the Transport Agency's '[fit and proper person](#)' requirements under Clause 2.5(2) of the Land Transport Rule: Vehicle Standards Compliance 2002, and
- undergo auditing by the Transport Agency from time to time, to ensure they're meeting safety and quality obligations, and
- undergo an extensive performance evaluation to ensure their ability to produce vehicles with conformity of production.

The modifier will be appointed as an inspecting organisation, with the associated application process and fees. The '[Certificate of fitness inspecting organisation](#)' [application form](#) shows the type of information and fees required to become an inspecting organisation.

We agree that requiring a reference and Code of Conduct are also suitable criteria and will be adding these to the appointment process.

**Most modifiers will not have the knowledge and expertise in engineering, quality management systems and certification to be able to reliably certify their own vehicles. How will you ensure that modifiers are doing the right thing?**

The criteria a modifier must meet in order to be eligible for type certification (as listed above) are intended to ensure they have the necessary knowledge and processes in place to certify their own vehicles. Only commercial modifiers who are able to meet these requirements will be approved to certify their own vehicles. We acknowledge that there are a number of commercial modifiers who will not meet these eligibility criteria and those modifiers will be required to use the existing LVV certification process.

The auditing regime will ensure that approved modifiers are continuing to meet the required standards to retain their type certification approval. In addition, there are a range of actions available to the Agency to address any non-conformance, such as removing the modifier's ability to certify their own vehicles, and requiring a recall of suspected defective vehicles.

**If a loss in certification income results in LVV certifiers ceasing business, customers may struggle to find a certifier in their area for standard LVV certification work.**

We acknowledge there may be some loss of income to LVV certifiers resulting from removing the LVV certification requirement for some series-production vehicles. However, the number of vehicles likely to benefit from this change may be relatively small (less than 20 per cent of all vehicles modified each year) so we believe that the overall reduction in certification revenue is likely to be minor. We will monitor this area and the impacts of the change on access to certifiers.

**Some of the proposed changes are major and introduce new steps into the certification system. All care must be taken to ensure that any new process or appointments are implemented correctly and all parties understand their roles and responsibilities to ensure**

**vehicle safety is not compromised. The extent of change being proposed cannot be well implemented in the timeframe proposed.**

No specific implementation date has yet been set for this change. We are currently considering the feedback we have received from the consultation process and assessing the results of the pilot. The pilot phase will be followed by further review and refinement of the process, and we may elect not to continue beyond the pilot if we find any significant safety concerns. If the pilot is successful, it will be rolled out in a controlled manner.

**Regular and suitable auditing of modifiers will be critical to ensuring that modifiers are complying with requirements and producing safe vehicles. How will the Transport Agency audit modifiers? Does the Agency have enough suitably skilled people to undertake such an audit?**

The purpose of the type certification audit is to ensure that the vehicle has been built following the approved process and design. As part of the implementation of this process, we are considering the options for carrying out this auditing, and will provide more information on this in due course.

**Will any deviation at all from the approved design be allowed? Many modifiers may not appreciate the implications of even a slight deviation from the approved design, and modifications could be slowly and subtly changed over time, so that in the end the modified vehicle is quite different to the approved design. How will this be monitored and addressed?**

Deviations from a design are unlikely to be allowed once the initial design is approved and the first vehicle certified. If a change is required to the approved design, the modifier will need to apply for a variation to the design, which will need to be approved by an LVV certifier.

This will be monitored via auditing and any vehicles found to be certified without matching the approved design may be subject to actions such as requiring the modifier to recall and correct the vehicle(s).

**The Transport Agency should indicate what it considers to be adequate [insurance] cover for businesses undertaking these types of modifications, and these should be aligned with existing requirements for other types of certifiers, such as WoF or CoF inspecting organisations (IOs). Insurance coverage for a self-certifying modifier should be similar to a CoF IO, if not more, given the fundamental safety issues at play.**

We have noted this feedback and will consider it in the implementation of the new process.

**There needs to be more definition around what you mean by a 'recognised Quality Management System (QMS)'. For example, what systems will be approved, who will approve them, who will audit them (and what will that cost the modifier), and will the cost to the modifier of implementing a QMS outweigh the cost of the current system?**

The QMS must ensure that staff are adequately trained, there are reliable quality control processes in place, sufficient production records are kept, and the modifier can certify that each vehicle is built to the same design every time. ISO 9001 and Q-Base are two well-known and recognised QMS examples commonly used in New Zealand companies, but we may accept other recognised systems if they cover similar quality management aspects.

External auditing of the QMS by a third party is required to ensure the business is adhering to its processes and is following internationally-recognised quality management principles.

A QMS needs to be tailored to the specific business and is typically set up with the help of a specialist consultant. The cost and requirements for this will therefore vary from business to

business. There are a number of providers in New Zealand who will help small and medium-sized companies to set up a QMS.

Modifiers will need to assess the costs of becoming approved for type certification - including setting up a QMS if they don't already have one - against the savings associated with not requiring LVV certification for every type approved modification, and decide if it is the right choice for their business.

**Have you considered an alternative approach, that meets somewhere in the middle between the current state and the proposed process? For example, the certifier could still sign off on each modification, but you could streamline that certification process and reduce the paperwork associated with it, compared to standard LVV certifications.**

We did consider an intermediate option in the early planning stages. We are currently focusing our resources on developing and implementing the type certification process, as this represents the biggest benefit for commercial modifiers. Once this is implemented, we may consider further streamlining options if necessary.

## Summary

We have considered all feedback that has been provided to us via the consultation process for these proposed changes. For the most part, the feedback can be addressed without significantly changing the processes as originally described. Where the feedback has shown us we needed to reconsider aspects of the process - such as in several parts of the process around imported modified vehicles - we have made amendments to address concerns raised. Significant feedback raised in relation to type certification will be incorporated into the assessment of the pilot and finalisation of the type certification process.

The new process for imported modified vehicles took effect from 1 November 2016, starting with modified vehicles imported with European Community Whole Vehicle Type Approval (ECWVTA). We are also finalising an approach to allowing certain vehicles modified in Japan to be excluded from LVV certification in New Zealand, and are seeking to have this in place early in the new year. We're continuing to research other overseas systems for certifying modified vehicles, and adding to the range of overseas approvals we will accept as an alternative to LVV certification in the entry certification process. The finalised process achieves the objectives of making it easier and more cost effective for modified vehicles of a high standard to be imported into New Zealand, and increasing accessibility to special vehicles required by businesses and private citizens.

We will assess the results of the type certification pilot in December, and as a result of that assessment we will make recommendations for any changes to the proposed process and next steps in implementing the process. These recommendations will take into account the key feedback raised during consultation, for example adding to the eligibility criteria and specifying the level of insurance required.