

MINISTERIAL BRIEFING NOTE

Subject	Improving management of water damaged vehicles and vehicle damage history
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Contact(s) for telephone discussion (if required)				
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Action taken by Office of the Minister

- Noted
- Seen by Minister
- Agreed
- Feedback provided
- Forwarded to
- Needs change [please specify]
- Withdrawn
- Overtaken by events

26 July 2016

Associate Minister of Transport

Improving management of water damaged vehicles and vehicle damage history

Purpose

1. The purpose of this briefing is to inform you of our intention to:
 - amend our repair certification guidelines to require full repair and restoration (refit) of imported motor vehicles identified as water damaged, regardless of the level of water damage
 - improve the management and availability of information on vehicle damage history.
2. Progressing these changes will contribute to road safety and will reduce consumer protection issues arising from poor availability of information about damage history.

Background

Damaged used vehicles can be imported but can only be registered for on-road use if satisfactorily repaired

3. Damaged motor vehicles can be imported into New Zealand¹, but must be satisfactorily repaired and certified before being registered for on-road use. Damaged vehicles are identified at border inspection or during formal entry certification and a 'flag' is attached to the vehicle record in the vehicle database (Landata).
4. Damage flagged vehicles are inspected by a New Zealand Transport Agency (NZTA) appointed repair certifier, who makes a determination that:
 - (i) there is no damage
 - (ii) the damage is/was minor and does not require repair certification
 - (iii) the damage is/was substantial and will require repair certification before registration for on-road use can occur.
5. If the repair certifier categorises the vehicle as (i) or (ii), the damage flag is removed. If the vehicle is categorised as (iii), the damage flag remains on the vehicle record. In 2015, approximately 12 percent (17,700) of the 150,000 used light vehicles imported into New Zealand were category (iii) damage flagged.

¹Damaged vehicles are sometimes referred to as "write offs". An imported damaged vehicle may have been "written off" by an insurance company in the country of origin. Legislation in some countries prevents some insurance write offs from re-registered for on-road use even if repaired; these are referred to as "statutory write offs". The threshold for statutory write off varies between countries and between states in some countries. For example, all insurance write offs are deemed statutory write offs in New South Wales but other Australian states apply damage thresholds that determine when an insurance write off can be repaired and re-registered for on-road use. Not all damaged vehicles imported into New Zealand are insurance or statutory write offs.

6. Category (iii) vehicles are also inspected by an NZTA appointed repair certifier after repairs have been completed. If satisfied that the repairs meet standards, the repair certifier will issue a repair certificate and the vehicle is then eligible to be registered for on-road use.

Water damage is more difficult to identify and manage than other types of vehicle damage

7. Border inspection detects physically obvious or documented damage. Entry certification involves stripping down the vehicle and enables previously hidden damage or damage repair to be detected.
8. Water damage to a vehicle can be difficult to detect even at entry certification if deliberately masked. This is because:
 - water affects componentry, and degradation occurs slowly so may not be visible for a number of months
 - external evidence of water damage – or the extent of water damage – can be masked through vehicle grooming.
9. Safe repair of water damage requires all affected electronic and pyrotechnic safety components, such as sensors, Supplementary Restraint Systems control modules, airbags, pre-tensioner seatbelts and wiring, to be refitted, which is expensive. The incentive to misrepresent water damaged vehicles can therefore be high.
10. An accurate record of the number of water damaged vehicles imported is not available. The estimated number imported in 2015 is less than 1000 (ie, less than 0.7 percent of all used light vehicle). The main source of water damaged imports is Australia.

Changes to the management of water damaged vehicles to address safety risk

Current processes means some water damaged vehicles are not being fully repaired

11. Our current operational policies enable repair certifiers to determine the level to which a vehicle has been flooded and, subject to our approval, not require components above this level to be replaced. This process is referred to as the “deviation process”.
12. We are aware of several cases where a vehicle has been determined to have experienced minor water damage but subsequent investigation has found the vehicle was inundated with water. In these cases, the true extent of water damage appears to have been deliberately masked or misrepresented.
13. Failure to identify and fully repair water damage can result in:
 - safety risk - unrepaired water damaged components may fail or not function properly, including in the event of a crash, resulting in increased risk of serious injury or death
 - consumer financial loss - consumers may unknowingly purchase or overpay for vehicles that are not fit-for-purpose or that will later require extensive repair
 - public loss of confidence - media about undetected water damaged vehicles may result in consumers losing confidence in vehicle certification processes.

Changes to better manage risk associated with water damaged vehicles

14. We intend to change the process for managing water damaged vehicles to better address safety risk. We explored two options for progressing change as follows.

- (i) Remove the deviation process from the Repair Vehicle Inspection Requirements Manual (Repair VIRM). The Repair VIRM is a guideline document not covered explicitly by legislation but given status as part of the repair certifier appointment process. We are able to amend the Repair VIRM at any time provided the amendments are consistent with land transport rules. Implementing this option means all electronic and pyrotechnic safety components in water damaged vehicles would have to be refitted no matter the level of water damage incurred.
 - (ii) Issue a Gazette notice specifying the extent of water damage where vehicles cannot be practically inspected and certified as being safe. Section 11.1 of the Land Transport Rule: Vehicle Standards Compliance 2002 provides for us to notify a threshold at which a water damaged vehicle cannot be repaired and certified. To remove incentives to deliberately misrepresent water damage levels the threshold could be set at a level that excludes all water damaged vehicles from being repair certified.
15. We intend to implement option (i) to remove the deviation process from the Repair VIRM. This takes minimal time and effort to implement, effectively minimises the safety risk and retains the option for vehicle owners or importers to repair a water damaged vehicle and have it certified for on-road use. Issuing a Gazette notice would be equally effective and have greater legal strength, but would take longer to implement and would prevent all water damaged vehicles from being certified for on-road use, even when fully repaired.

Implications of the change for stakeholders

- 16. Removing the deviation process will increase the cost of repairing water damaged vehicles and make many economically unviable to repair. This will likely result in fewer water damaged vehicles being imported into New Zealand. A reduction in the number of water damaged used vehicles imported will not impact the overall availability of imported used vehicles in the New Zealand market place.
- 17. Importers of water damaged vehicles will be unhappy with the change as it will impact their profit margins. Importers will, however, be able to factor the increased cost of repair into their purchase decisions.
- 18. We consider the impact justified given the safety risk associated with improperly repaired water damaged vehicles, the incentives to misrepresent water damage levels and the difficulty identifying the true extent of water damage.

Management of information on damage to vehicles

- 19. New Zealand's entry certification and repair certification processes are designed to detect damaged vehicle imports and ensure damage is properly repaired and the vehicle made safe to operate before it can be registered for on-road use.
- 20. However, the ability to remove damage flags has led to cases where vehicle purchasers have bought previously damaged vehicles unknowingly. One such case is currently under investigation by the Commerce Commission.
- 21. The ability to remove damage flags was put in place to provide greater equity between sellers of imported damaged vehicles and sellers of vehicles damaged in New Zealand. In the latter case, there is no provision for flagging the vehicle as damaged.
- 22. The removal of damage flags reduces access to information about an imported vehicle's history, as sellers of imported vehicle are only required to include damage history on the Customer Information Notice (CIN) if there is a damage flag.

23. In conjunction with the Ministry of Business, Innovation and Employment (MBIE), who own the CIN, we are looking at amendments to how damage flags are managed. The options we are exploring include:
- prohibiting the removal of damage flags from imported vehicles. This would mean that all damage flags would be notified on the CIN
 - extending the damage flag process to vehicles damaged in New Zealand, to ensure consumers have access to damage information no matter the vehicle origin
 - providing access to more information about damage and repair history on the CIN or other mechanisms, including making use of new technologies.
24. It is likely that some members of the used imported and new car sales industries will be concerned about any changes that would make damage and repair history more available to customers. Their concerns will be about the potential impact on the value and saleability of affected vehicles.

Next Steps

25. Removal of the deviation process for water damaged vehicles can be implemented as new guidance to repair certifiers. We intend to inform repair certifiers and the used vehicle import industry of the change in August 2016 and provide one month notice. Providing one month notice allows vehicles en-route to New Zealand to be certified under the current requirements and should reduce criticism from used vehicle importers about financial losses incurred on vehicles purchased prior to the change.
26. We will use the weekly report to provide you advance notice of our release of information on the change to repair certifiers and industry.
27. In early September 2016, we will provide you a briefing on our and MBIE’s preferred approaches to improving the management of vehicle damage and repair history, including how technology can assist in making this information easily available to customers.

It is recommended that you:

28. **Note** the contents of this briefing.



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Celia Patrick

Group Manager Access and Use

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Hon Craig Foss

Associate Minister of Transport

Date: 2016