

New Zealand Transport Agency (Waterview Tunnels) Bylaw 2016

Pursuant to section 61(3) of the Government Roading Powers Act 1989, for the purposes specified in section 22AB of the Land Transport Act 1998, the NZ Transport Agency makes the following bylaw.

Bylaw

1. Title—This bylaw is the New Zealand Transport Agency (Waterview Tunnels) Bylaw 2016.

2. Commencement—This bylaw comes into force 28 days after the date of its publication in the *New Zealand Gazette*.

3. Application—This bylaw applies to State Highway 20 and State Highway 16 as follows:

- For the northbound lanes, from the Maioro Street Interchange on State Highway 20, including the on-ramp, through the Waterview Tunnel, including the State Highway 16 on-ramps.
- For the southbound lanes, from the start of each of the two State Highway 20 on-ramps from State Highway 16 onto State Highway 20, through the Waterview Tunnel to the Maioro Street Interchange.

4. Interpretation—In this bylaw, unless the context otherwise requires:

Agency means the NZ Transport Agency.

Dangerous Goods has the same definition as set out in Part 2 of the Land Transport Rule: Dangerous Goods 2005.

Goods Service Vehicle has the same meaning as in section 2 of the Land Transport Act 1998.

Emergency Services Personnel means any member of the New Zealand Police, New Zealand Fire Service, or an ambulance service.

Loose Bulk Load means the transport of unpackaged material that is capable of generating or releasing dust due to wind action or movement and includes but is not limited to fertiliser, construction or demolition material, waste, soil, sand, or stock feed.

Motorway means the South-Western Motorway (State Highway 20) and the North-Western Motorway (State Highway 16).

Pedestrian has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004.

Tunnels means the Waterview Tunnels on State Highway 20, South-Western Motorway.

Tunnel Operator means any person with delegated authority from the Agency for Tunnel and/or Motorway traffic operations (including any person appointed as a Site Traffic Management Supervisor for temporary works and incident response crews).

5. Prohibited vehicles—An operator of any of the following vehicles must not cause or permit the vehicle to enter the area of Motorway described in clause 3 of this bylaw:

- a. Any vehicle carrying Dangerous Goods that is required to display placards under section 7 of the Land Transport Rule: Dangerous Goods 2005.
- b. Any Goods Service Vehicle carrying a Loose Bulk Load that is not covered in a manner that minimises dust and residue from escaping from the vehicle.
- c. Any vehicle including its load that exceeds 4.30m in height.

6. Activity within the Tunnels regulated—(1) A person in the Tunnels must comply with direction or instruction of a Tunnel Operator or Emergency Services Personnel.

(2) A person while in the Tunnels must not:

- a. drive a vehicle at a speed so low as to block or impede the normal and reasonable movement of traffic;
- b. tow any vehicle other than:
 - i. a vehicle being towed with a rigid pole or A-frame; or
 - ii. a trailer;
- c. propel a vehicle by pushing it with another vehicle;
- d. change a tyre or wheel on a vehicle;
- e. repair a vehicle;

- f. fuel a vehicle;
- g. alight from a vehicle except as provided in clause 7 of this bylaw; or
- h. deposit any glass, dirt, rubbish or matter in the Tunnels.

7. Pedestrian traffic—A Pedestrian must not be within the Tunnels unless:

- a. that person is in the Tunnels to carry out maintenance authorised by the Agency; or
- b. it is necessary for that person to alight from a vehicle as a result of any crash, breakdown or other emergency.

8. Behaviour in Tunnels restricted—(1) A person in the Tunnels must not:

- a. remain in the Tunnels after being requested to leave by a Tunnel Operator or Emergency Services Personnel; or
- b. leave a vehicle unattended in the Tunnels unless acting in accordance with clause 7 of this bylaw.

(2) In addition to the powers conferred on it by any other enactment, the Agency may remove or cause to be removed any vehicle left unattended or stopped without good cause in the Tunnels and the Agency may recover the reasonable costs of the removal from the vehicle's owner.

9. Offences and penalties—Without limiting any provision of any other enactment, a person who breaches clauses 5, 6, 7 or 8 of this bylaw commits an offence and is liable to a fine not exceeding \$500.00.

10. General exceptions—(1) A person is not in breach of this bylaw if the act or omission that would otherwise constitute a breach:

- a. was done at the direction of a Tunnel Operator or Emergency Services Personnel; or
- b. in the case of an act or omission done by a Tunnel Operator or Emergency Services Personnel, was necessary in the execution of the person's duty.

(2) A person is not in breach of this bylaw if that person proves that:

- a. the act or omission that would otherwise constitute a breach took place in response to a situation in the area of Motorway described in clause 3 of this bylaw; and
- b. the situation was not of the person's own making; and
- c. the act or omission was taken:
 - i. to avoid the death or injury of a person; or
 - ii. if the act or omission did not create a risk of death or injury or greater damage to any property, to avoid damage to any property.

11. Authority to make bylaw—This bylaw was made by the Chief Advisor (Technical Services) Highways and Network Operations, under the delegated authority of the Agency.

Dated at Wellington this 3rd day of November 2016.

Signed on behalf of NZ Transport Agency by:

DAVE BATES, Chief Advisor (Technical Services) Highways and Network Operations, NZ Transport Agency.