

LEGISLATIVE COUNCIL BRIEF

SMOKING (PUBLIC HEALTH) ORDINANCE (CAP. 371)

SMOKING (PUBLIC HEALTH) ORDINANCE (AMENDMENT OF SCHEDULE 2) ORDER 2015

INTRODUCTION

On 4 December 2015, the Secretary for Food and Health (SFH), in exercise of the power under section 16A of the Smoking (Public Health) Ordinance (Cap. 371) (the Ordinance), made the Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2015 (the Amendment Order) at **Annex A** to designate eight bus interchanges (BIs) and adjoining facilities located at eight tunnel portal areas in Hong Kong as statutory no smoking areas (NSAs).

JUSTIFICATIONS

Present Policy

2. To protect public health, it is the established policy of the Government to discourage smoking, contain the proliferation of tobacco use and protect the public from passive smoking. Over the past three decades, we have adopted a progressive and multi-pronged approach comprising legislation, publicity, education, enforcement, smoking cessation and taxation to step up tobacco control, having regard to the expectations and acceptance of the community.

3. The Ordinance and its subsidiary legislation provide the legal framework for restricting the use, sale and promotion of tobacco products. Under the Ordinance, any person who smokes or carries a lighted cigarette, cigar or pipe in areas designated as no smoking areas (in contravention of *section 3*) or in public transport carriers (in contravention of *section 4*) commits an offence. Schedule 2 to the Ordinance specifies a number of designated NSAs and exempt areas.

4. In the past few years, the Tobacco Control Office (TCO) of the Department of Health has received suggestions (the breakdown is at **Annex B**) for imposing smoking ban at BIs, where passengers using the facilities are mainly for interchange into other bus routes. Non-smokers waiting and queuing for change of bus at BIs are unable to take any effective measures against second-hand smoking. To protect the health of the individuals, we decide to extend smoking ban to these locations.

5. Having regard to the physical configuration of these public facilities, the pedestrian flow and enforcement issues, we will designate eight BIs located at the tunnel portal areas of the following locations as NSAs –

- (a) Lion Rock Tunnel Bus Interchange;
- (b) Cross-Harbour Tunnel Bus Interchange;
- (c) Eastern Harbour Crossing Bus Interchange;
- (d) Shing Mun Tunnels Bus Interchange;
- (e) Tate's Cairn Tunnel Bus Interchange;
- (f) Western Harbour Crossing Bus Interchange;
- (g) Tai Lam Tunnel Bus Interchange; and
- (h) Tsing Sha Highway Bus Interchange.

6. The proposed NSAs will cover the boarding areas and some adjoining waiting areas and facilities.

7. We consulted the Panel on Health Services of the Legislative Council (LegCo) on 18 May 2015 and stakeholders at the meeting with deputations held on 6 July 2015, relevant District Councils, tunnel operators, Mass Transit Railway Company Limited and bus companies. We do not receive any adverse comments.

Implementation

8. The boundary of these new NSAs cover the boarding and waiting areas of the bus interchanges, as well as the boarding and waiting areas that passengers will pass by in the course of accessing and interchanging among different bus routes. The exact boundary is

delineated in formal plans signed by SFH and deposited in the Land Registry as well as gazetted and posted on the website of TCO. Copies of these plans are at **Annex C**.

9. To facilitate the implementation of smoking ban at these BIs, the TCO will arrange to display signs, publicity materials, and other demarcations including markings on the ground as appropriate to indicate clearly and visibly the boundaries of the NSA at each BI, having regard to their respective physical settings. The plans showing the boundaries of the NSAs will be posted at prominent locations such as main entrances and exits before the statutory smoking ban takes effect. The TCO will also display no-smoking signs at conspicuous locations within the NSAs of the BIs to remind the public of the smoking ban. In addition, a set of television and radio Announcement in the Public Interest will be produced to publicise the smoking ban.

10. After the legislative amendments come into operation on 31 March 2016, TCO will undertake enforcement actions at these locations through inspection and issue fixed penalty notice under the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) to those who contravene the statutory smoking ban.

THE AMENDMENT ORDER

11. The Amendment Order amends Schedule 2 to the Ordinance to designate the BIs located within eight tunnel portal areas in Hong Kong as NSAs. Subject to negative vetting by the LegCo, the Amendment Order will come into operation on 31 March 2016.

LEGISLATIVE TIMETABLE

12. The legislative timetable is as follows –

Publication of Amendment Order in the Gazette	11 December 2015
Tabling at LegCo	16 December 2015

IMPLICATIONS OF THE PROPOSAL

13. The Amendment Order is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the principal ordinance. Implementation of the proposal will be absorbed within the existing manpower and financial resources of the Department of Health. We will review the manpower situation of TCO in mid-2016 and consider measures to strengthen the effectiveness of TCO's enforcement at the NSAs throughout the territory. It has no economic, environmental and sustainability implications.

PUBLICITY

14. An information paper on the details of the amendments has been issued to 18 District Councils. All plans of the NSAs of the related BIs will be gazetted and deposited in the Land Registry for inspection by the public. They will also be posted on the website of TCO before the Amendment Order takes effect.

ENQUIRIES

15. Enquiry on this brief can be addressed to Miss Bonnie YIM, Assistant Secretary (Health) 7, Food and Health Bureau (Tel: 3509 8961; E-mail: byhyim@fhb.gov.hk).

**Food and Health Bureau
Department of Health
December 2015**

Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2015

(Made by the Secretary for Food and Health under section 16A of the Smoking (Public Health) Ordinance (Cap. 371))

1. Commencement

This Order comes into operation on 31 March 2016.

2. Smoking (Public Health) Ordinance amended

The Smoking (Public Health) Ordinance (Cap. 371) is amended as set out in section 3.

3. Schedule 2 amended (designated no smoking areas and exempt areas)

Schedule 2, Part 1, after item 20—

Add

“21. The following bus interchanges and adjoining facilities—

- (a) Lion Rock Tunnel Bus Interchange, located on both sides of the toll plaza of the Lion Rock Tunnel, as shown coloured orange and edged red on Plan No. DH/TCO/T-004V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
- (b) Cross-Harbour Tunnel Bus Interchange, located on both sides of the toll plaza of the Cross-Harbour Tunnel, together with the adjoining staircases and part of the adjoining elevated walkways, as shown—

- (i) coloured orange and edged red;
- (ii) coloured yellow and edged red;
- (iii) coloured orange stippled black and edged red; and
- (iv) coloured orange hatched black and edged red,

on Plan No. DH/TCO/T-001V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;

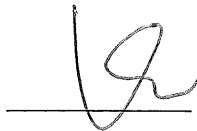
- (c) Eastern Harbour Crossing Bus Interchange, located on both sides of the toll plaza of the Eastern Harbour Crossing, as shown coloured orange and edged red on Plan No. DH/TCO/T-002V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
- (d) Shing Mun Tunnels Bus Interchange, located on both sides of the toll plaza of the Shing Mun Tunnels, as shown coloured orange and edged red on Plan No. DH/TCO/T-006V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
- (e) Tate's Cairn Tunnel Bus Interchange, located on both sides of the toll plaza of the Tate's Cairn Tunnel, as shown coloured orange and edged red on Plan No. DH/TCO/T-005V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
- (f) Western Harbour Crossing Bus Interchange, located on both sides of the toll plaza of the Western Harbour Crossing, as shown coloured orange and edged red on Plan No. DH/TCO/T-

003V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;

- (g) Tai Lam Tunnel Bus Interchange, located on both sides of the toll plaza of the Tai Lam Tunnel, as shown coloured orange and edged red on Plan No. DH/TCO/T-007V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry; and
- (h) Tsing Sha Highway Bus Interchange, located on both sides of the toll plaza on Tsing Sha Highway, as shown coloured orange and edged red on Plan No. DH/TCO/T-008V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry.”.

Secretary for Food and Health

4 December 2015



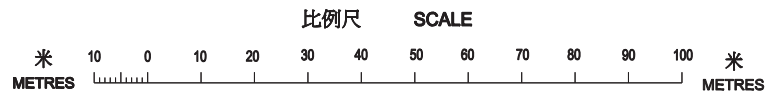
Explanatory Note

This Order designates the bus interchanges and certain adjoining facilities at 8 tunnel portal areas as no smoking areas under the Smoking (Public Health) Ordinance (Cap. 371).

Annex B

**Number of Suggestions Received by TCO to
Impose Smoking Ban at BIs Since 2011**

Suggested Locations of Imposing Smoking Ban	No. of Suggestions Received (as at September 2015)
Shing Mun Tunnels	71
Cross-Harbour Tunnel	30
Tai Lam Tunnel	17
Western Harbour Crossing	2
All Tunnels in Hong Kong	3



禁止吸煙區
(只限地面)
No Smoking Area
(Ground Level Only)

吸煙(公眾衛生)條例(第371章)
Smoking (Public Health) Ordinance (Cap. 371)
指定禁止吸煙區 - 獅子山隧道巴士轉乘處

Designated No Smoking Area - Lion Rock Tunnel Bus Interchange

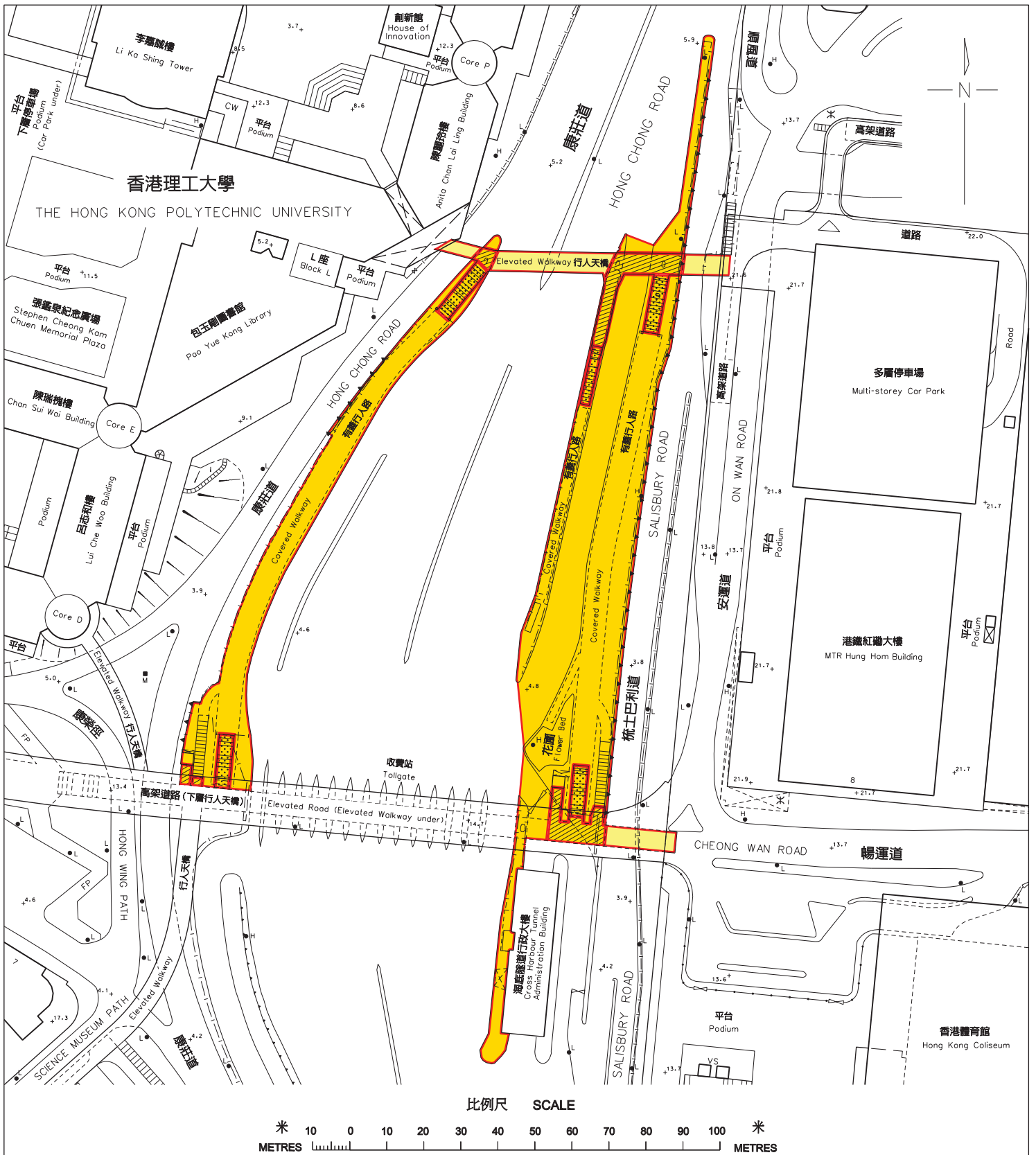
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Signed

食物及衛生局局長 高永文醫生
Secretary for Food and Health Dr. KO Wing-man
4 / 12 / 2015

圖則編號 **DH/TCO/T-004V1**
Plan No.

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吸煙(公眾衛生)條例 (第371章)
Smoking (Public Health) Ordinance (Cap. 371)

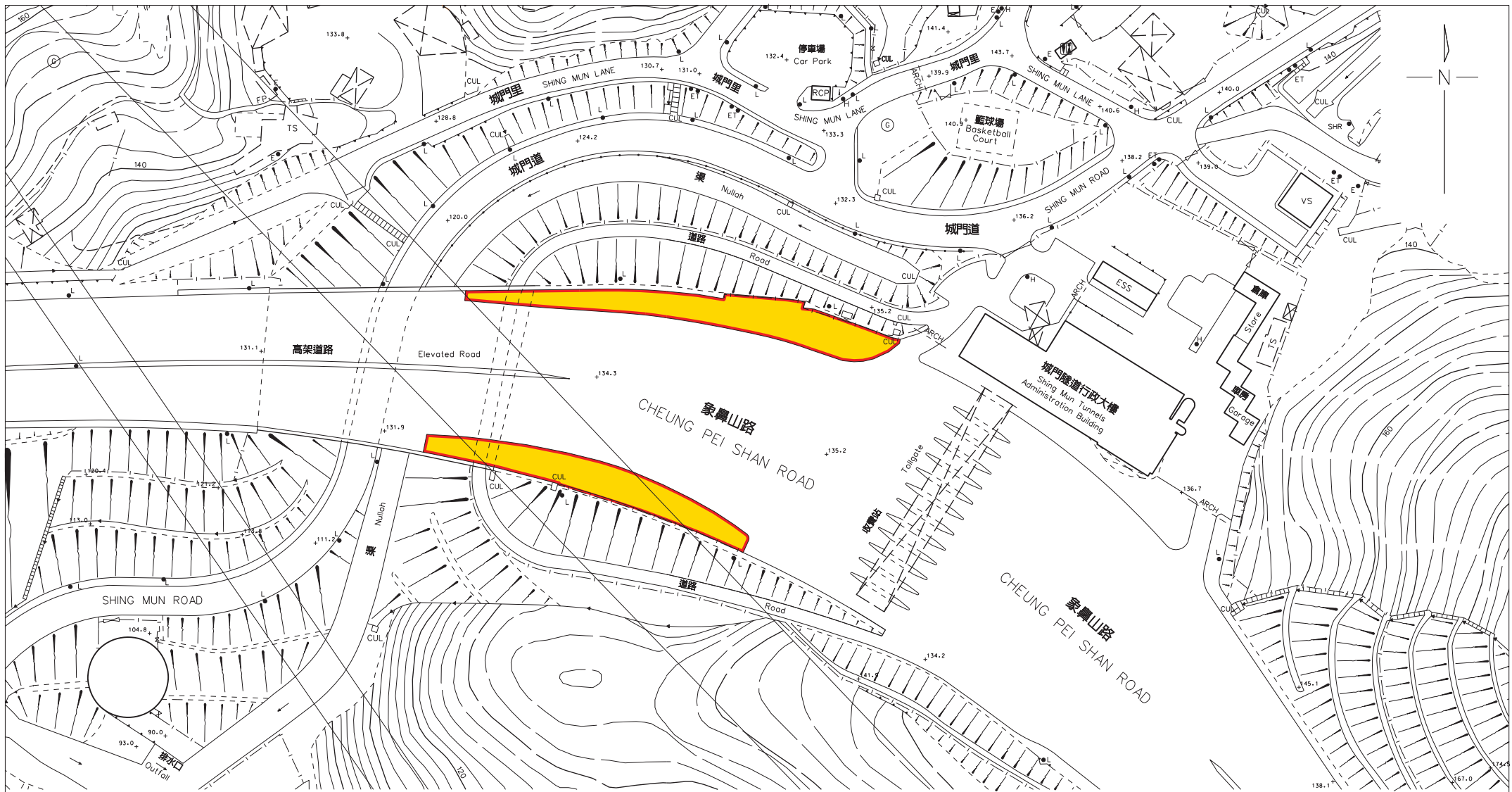
指定禁止吸煙區
海底隧道巴士轉乘處
Designated No Smoking Area
Cross-Harbour Tunnel Bus Interchange

-  禁止吸煙區 (只限行人天橋)
No Smoking Area (Elevated Walkway Only)
-  禁止吸煙區 (只限地面)
No Smoking Area (Ground Level Only)
-  禁止吸煙區 (只限行人天橋和地面)
No Smoking Area (Elevated Walkway and Ground Level Only)
-  禁止吸煙區 (只限地面和行人樓梯)
No Smoking Area (Ground Level and Staircase Only)

圖則編號 Plan No. **DH/TCO/T-001V1**

簽署 Signed
 食物及衛生局局長 高永文醫生
 Secretary for Food and Health Dr. KO Wing-man
 4/12/2015

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**禁止吸煙區
(只限地面)
No Smoking Area
(Ground Level Only)**

**吸煙(公眾衛生)條例(第371章)
Smoking (Public Health) Ordinance (Cap. 371)
指定禁止吸煙區 - 城門隧道巴士轉乘處**

Designated No Smoking Area - Shing Mun Tunnels Bus Interchange

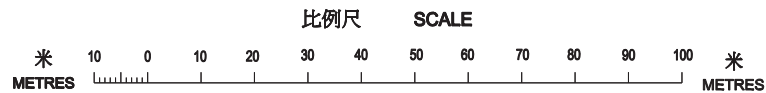
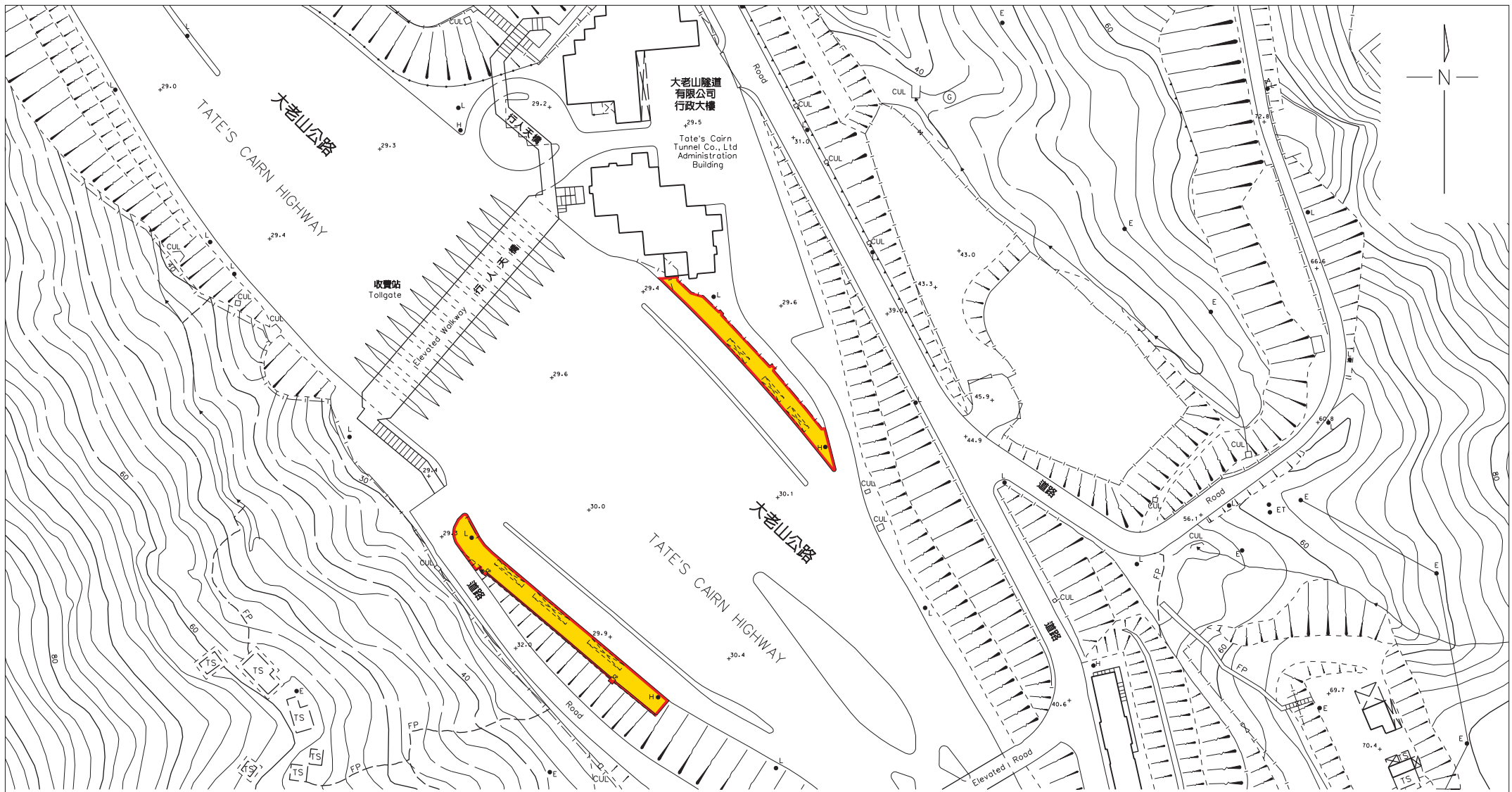
簽署

Signed

食物及衛生局局長 高永文醫生
Secretary for Food and Health Dr. KO Wing-man
4 / 12 / 2015

圖則編號 **DH/TCO/T-006V1**
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**禁止吸煙區
(只限地面)
No Smoking Area
(Ground Level Only)**

**吸煙(公眾衛生)條例(第371章)
Smoking (Public Health) Ordinance (Cap. 371)
指定禁止吸煙區 - 大老山隧道巴士轉乘處**

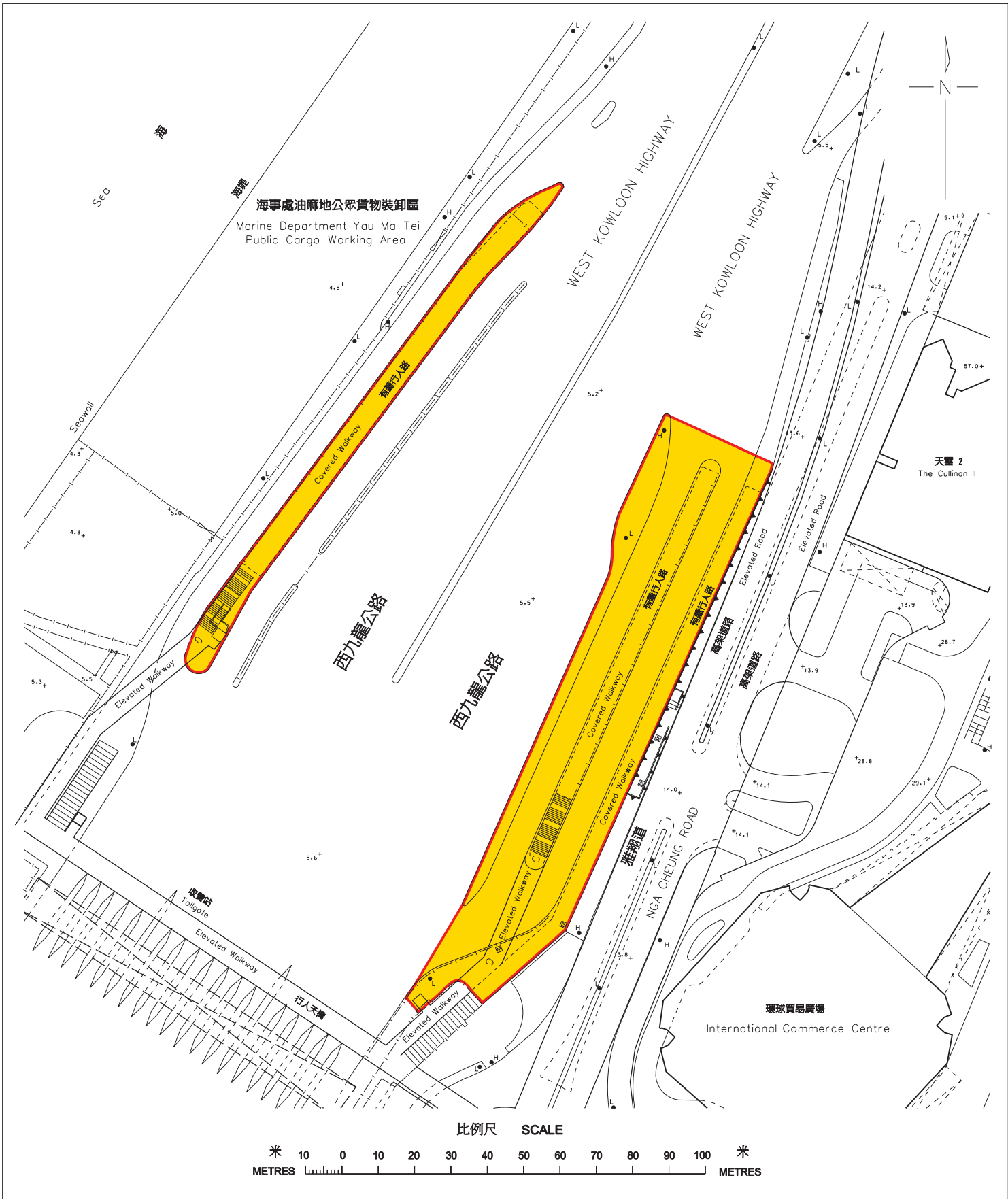
Designated No Smoking Area - Tate's Cairn Tunnel Bus Interchange

簽署 Signed

食物及衛生局局長 高永文醫生
Secretary for Food and Health Dr. KO Wing-man
4 / 12 / 2015

圖則編號 Plan No. DH/TCO/T-005V1

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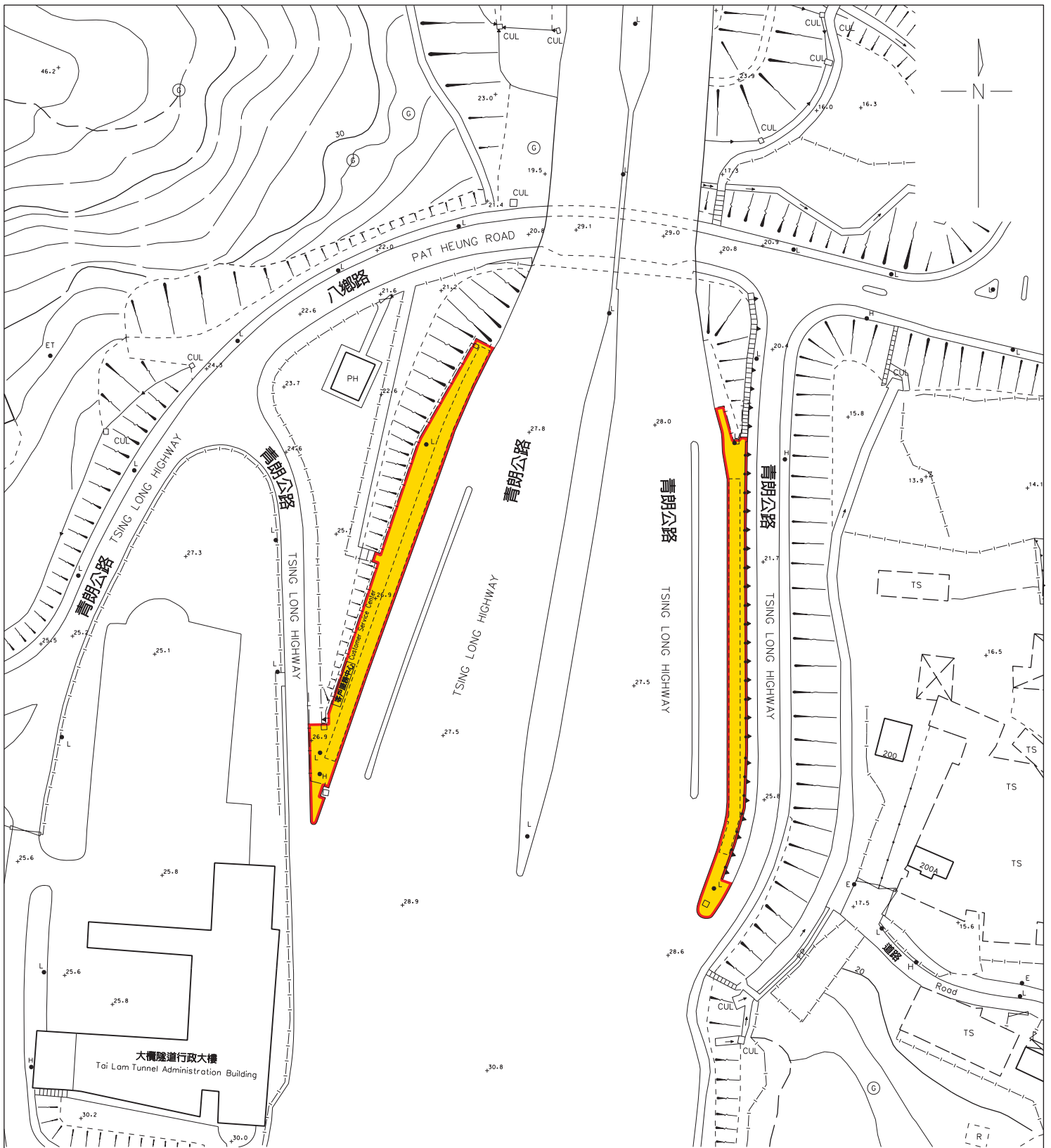
吸煙(公眾衛生)條例 (第371章)
Smoking (Public Health) Ordinance (Cap. 371)
指定禁止吸煙區
西區海底隧道巴士轉乘處
Designated No Smoking Area
Western Harbour Crossing Bus Interchange

 **禁止吸煙區 (只限地面)**
No Smoking Area (Ground Level Only)

圖則編號 Plan No. **DH/TCO/T-003V1**

簽署	Signed
食物及衛生局局長 Secretary for Food and Health	高永文醫生 Dr. KO Wing-man
4 / 12 / 2015	

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比例尺 SCALE
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 METRES METRES

吸煙(公眾衛生)條例 (第371章)
 Smoking (Public Health) Ordinance (Cap. 371)

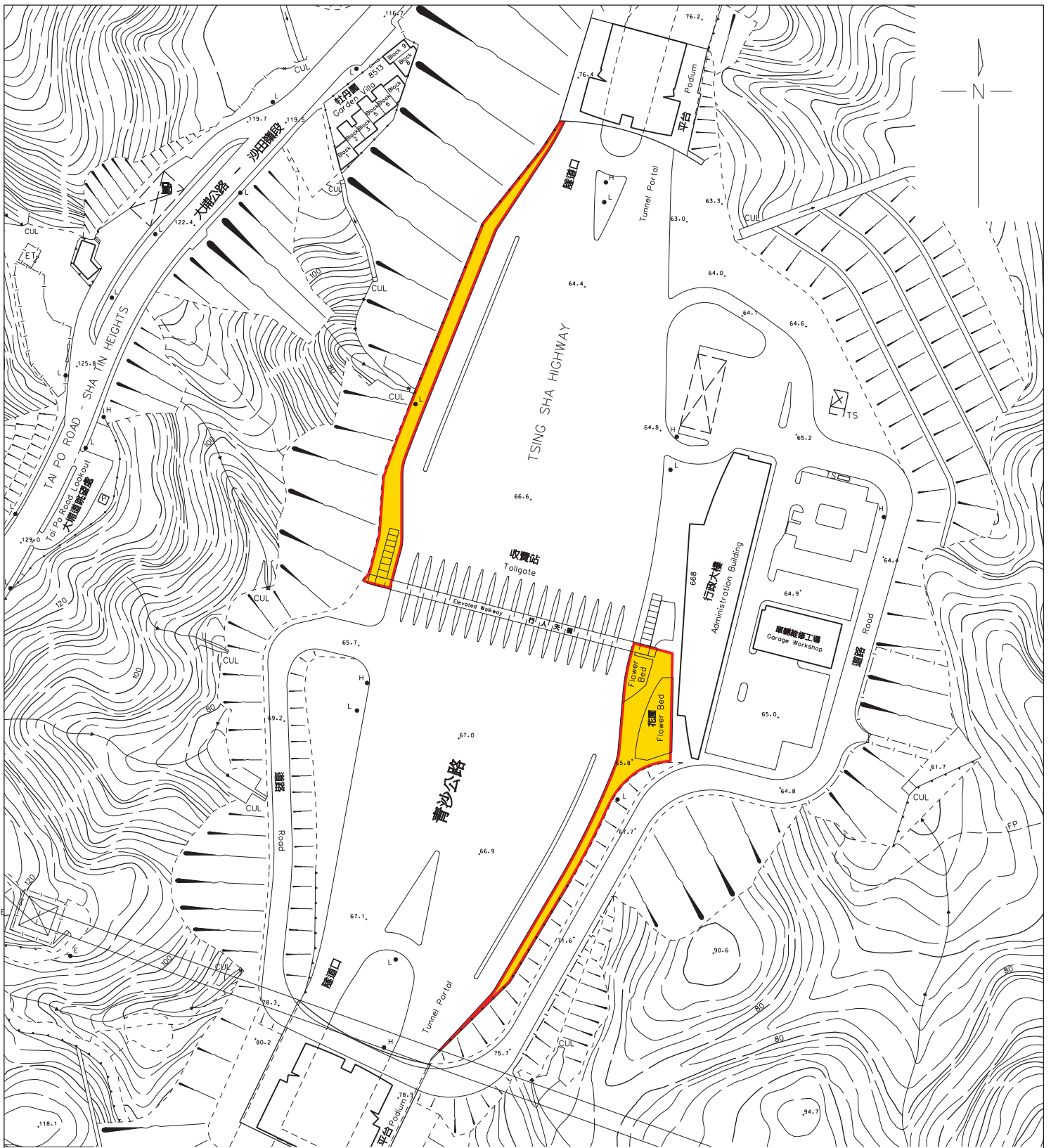
指定禁止吸煙區
 大欖隧道巴士轉乘處
 Designated No Smoking Area
 Tai Lam Tunnel Bus Interchange

 禁止吸煙區 (只限地面)
 No Smoking Area (Ground Level Only)

圖則編號 Plan No. DH/TCO/T-007V1

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食物及衛生局局長 Secretary for Food and Health	高永文醫生 Dr. KO Wing-man
4 / 12 / 2015	

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吸煙(公眾衛生)條例 (第371章)
Smoking (Public Health) Ordinance (Cap. 371)

指定禁止吸煙區
青沙公路巴士轉乘處
Designated No Smoking Area
Tsing Sha Highway Bus Interchange

 禁止吸煙區 (只限地面)
No Smoking Area (Ground Level Only)

圖則編號 Plan No. DH/TCO/T-008V1

簽署	Signed
食物及衛生局局長 Secretary for Food and Health	高永文醫生 Dr. KO Wing-man
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