

**LEGISLATIVE COUNCIL BRIEF**

**SMOKING (PUBLIC HEALTH) ORDINANCE (CAP. 371)**

**SMOKING (PUBLIC HEALTH) ORDINANCE  
(AMENDMENT OF SCHEDULE 2) ORDER 2018**

**INTRODUCTION**

On 7 May 2018, the Secretary for Food and Health (“SFH”), in exercise of the power under section 16A of the Smoking (Public Health) Ordinance (Cap. 371) (“Cap. 371”), made the Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2018 (“the Amendment Order”), at **Annex A**, to designate three bus interchanges (“BIs”) and adjoining facilities leading to expressways or tunnels in Hong Kong as statutory no smoking areas (“NSAs”).

**JUSTIFICATIONS**

**Present Policy**

2. The Government’s tobacco control policy seeks to safeguard public health by discouraging smoking, containing the proliferation of tobacco use and minimising the impact of passive smoking on the public. Our progressive multi-pronged approach, comprising legislation, enforcement, publicity, education, smoking cessation services and taxation, has gradually reduced the smoking prevalence rate from 23.3% in 1982 to 10.0% in 2017.

3. Cap. 371 and its subsidiary legislation provide the legal framework for restricting the use, sale and promotion of tobacco products. Under Cap. 371, any person who smokes or carries a lighted cigarette, cigar or pipe in areas designated as no smoking areas (in contravention of *section 3(2)*) or in public transport carriers (in contravention of *section 4(1)*) commits an offence (*section 7(1)*). Part 1 of Schedule 2 to Cap. 371 specifies a number of designated NSAs.

4. Over the past decades, we have been progressively stepping up tobacco control efforts on all fronts having regard to the expectation and level of acceptance of our community. On 31 March 2016, we extended the smoking ban to the following eight BIs at tunnel portal areas –

- (a) Cross-Harbour Tunnel Bus Interchange;

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

5. Enforcement at these newly designated NSAs was largely smooth and the smoking ban in these areas was welcomed by the public in general. A survey was conducted in April/May 2017 by the Department of Health to examine the level of awareness of and support for the current smoking ban at bus interchange facilities and the sentiment of further extension of NSAs. The survey revealed that 93.2% of all respondents<sup>1</sup> agreed that the designation of BIs at the tunnel portal areas as NSAs could protect them from being harmed by secondhand smoke. Besides, 93.8% of all respondents<sup>2</sup> supported further expansion of NSAs to include additional areas such as other BIs and bus stops. The support from the vast majority of the respondents reinforces the suggestions to further extend the smoking ban at public facilities that we have received from time to time. We thus propose to extend the smoking ban to the remaining BIs that lead to expressways or tunnels.

### **Smoking Ban at Three BIs Leading to Expressways or Tunnels**

6. According to the Transport Department, there are 11 BIs that lead to expressways or tunnels, of which eight have been designated as NSAs in 2016. The remaining three BIs are –

- (a) Aberdeen Tunnel Bus Interchange;
- (b) Lantau Toll Plaza Bus Interchange; and
- (c) Tuen Mun Road Bus Interchange.

There are about 26 to 71 bus routes at each of these three BIs for passenger interchange.

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

8. We consulted the Panel on Health Services of the Legislative Council (“LegCo”) on 24 April 2018 and relevant District Councils. We did not receive any adverse comments.

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<sup>1</sup> Excluding 12 respondents who declared “no comment / refused to answer”.

<sup>2</sup> Excluding 10 respondents who declared “no comment / refused to answer”.

## **Implementation**

9. 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 the Tobacco Control Office (“TCO”) under the Department of Health. Copies of these plans are at **Annex B**.

10. 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. In addition, a set of television and radio Announcement in the Public Interest will be produced to publicise the smoking ban.

11. After the legislative amendments come into operation on 31 August 2018, TCO will undertake enforcement actions at these locations through inspection and issue of fixed penalty notice under the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) to those who contravene the statutory smoking ban.

## **THE AMENDMENT ORDER**

12. The Amendment Order amends Part 1 of Schedule 2 to Cap. 371 to designate the three BIs leading to expressways or tunnels in Hong Kong as NSAs. Subject to negative vetting by the LegCo, the Amendment Order will come into operation on 31 August 2018.

## **LEGISLATIVE TIMETABLE**

13. The legislative timetable is as follows –

|   |             |
|---|-------------|
| Publication of Amendment Order in the Gazette | 11 May 2018 |
| Tabling at LegCo                              | 16 May 2018 |

## **IMPLICATIONS OF THE PROPOSAL**

14. The Amendment Order is in conformity with the Basic Law, including the provisions concerning human rights. Implementation of the proposal will be absorbed within the existing manpower and financial resources of the Department of Health. It has insignificant family and no financial, civil service, economic, environmental, competition, gender or sustainability implications. It will not affect the current binding effect of the principal ordinance.

## **PUBLICITY**

15. 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**

16. Enquiry on this brief can be addressed to Miss Carol WONG, Assistant Secretary (Health) 5A, Food and Health Bureau (Tel: 3509 8961; E-mail: cskwong@fhb.gov.hk).

**Food and Health Bureau  
Department of Health  
9 May 2018**

## Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2018

(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 August 2018.
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)**
  - (1) Schedule 2, Part 1, item 21(g)—  
**Repeal**  
“; and”  
**Substitute a semicolon.**
  - (2) Schedule 2, Part 1, item 21(h)—  
**Repeal**  
“Registry.”  
**Substitute**  
“Registry;”.
  - (3) Schedule 2, Part 1, after item 21(h)—  
**Add**  
“(i) Tuen Mun Road Bus Interchange (Kowloon Bound), located at Tuen Mun Road, as shown coloured orange

and edged red on Plan No. DH/TCO/E-003V1, signed by the Secretary on 7 May 2018 and deposited in the Land Registry;

- (j) Tuen Mun Road Bus Interchange (Tuen Mun Bound), located at Tuen Mun Road, 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/E-004V1, signed by the Secretary on 7 May 2018 and deposited in the Land Registry;
- (k) Lantau Toll Plaza Bus Interchange, located on both sides of the toll plaza on North Lantau Highway, as shown coloured orange and edged red on Plan No. DH/TCO/E-002V1, signed by the Secretary on 7 May 2018 and deposited in the Land Registry; and
- (l) Aberdeen Tunnel Bus Interchange, on both sides of the unnamed road near the junction of Nam Fung Road with Wong Chuk Hang Road, as shown coloured orange and edged red on Plan No. DH/TCO/E-001V1, signed by the Secretary on 7 May 2018 and deposited in the Land Registry.”.



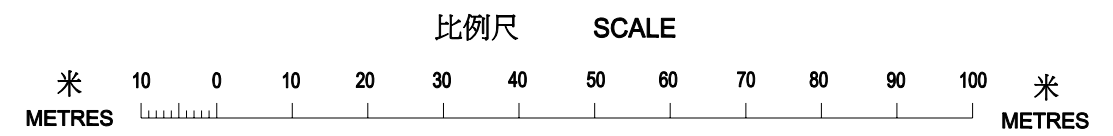
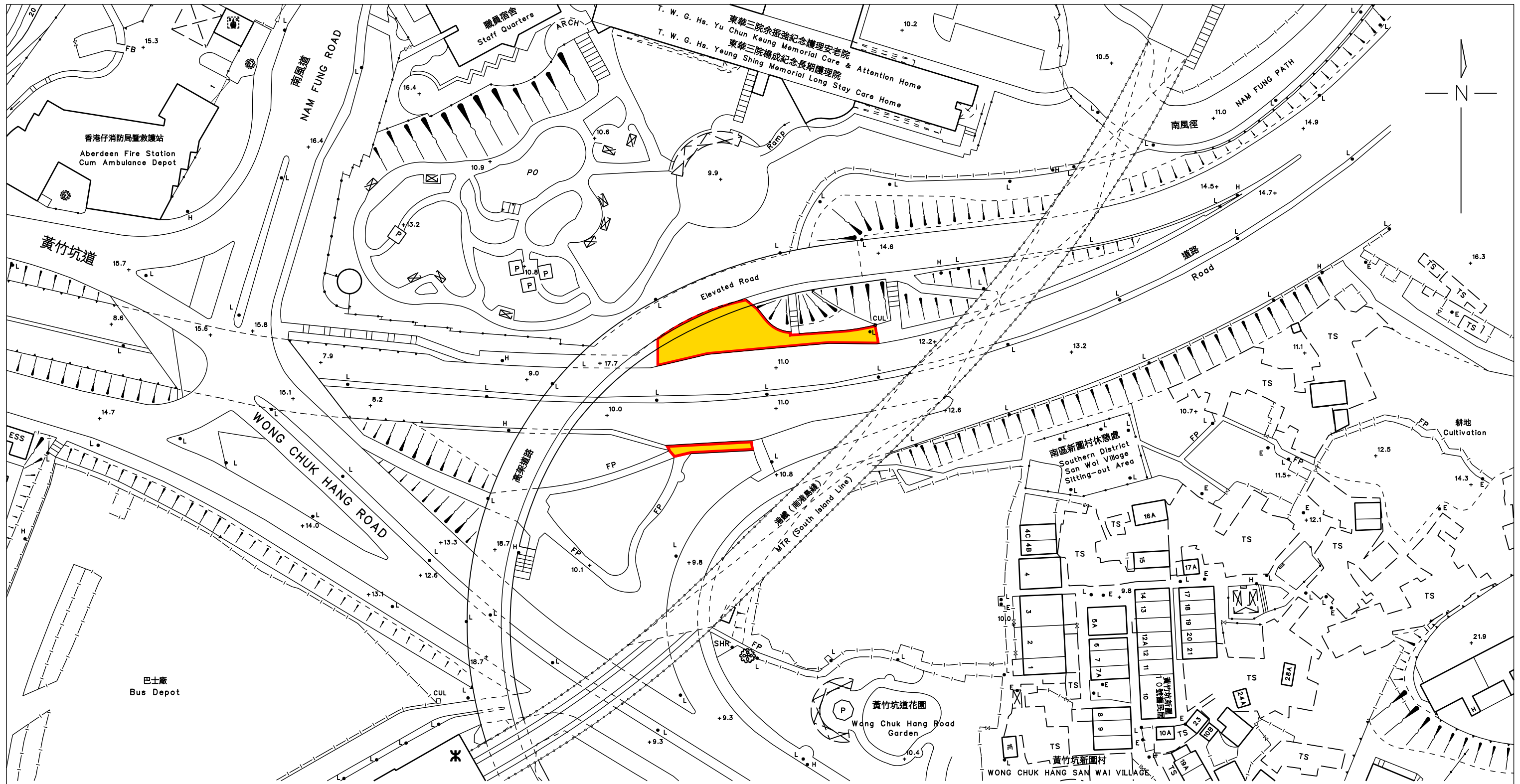
Secretary for Food and Health

7 May 2018

**Explanatory Note**

This Order designates the following bus interchanges and their adjoining facilities as no smoking areas under the Smoking (Public Health) Ordinance (Cap. 371)—

- (a) Tuen Mun Road Bus Interchange (Kowloon Bound);
- (b) Tuen Mun Road Bus Interchange (Tuen Mun Bound);
- (c) Lantau Toll Plaza Bus Interchange; and
- (d) Aberdeen Tunnel Bus Interchange.



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

底圖由地政總署測繪處提供  
Base map from Survey and Mapping Office, Lands Department  
底圖之圖例可參閱圖則編號 DH/TCO/L-001V1  
Legend of base map refers 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 - 香港仔隧道巴士轉乘處  
Designated No Smoking Area - Aberdeen Tunnel Bus Interchange

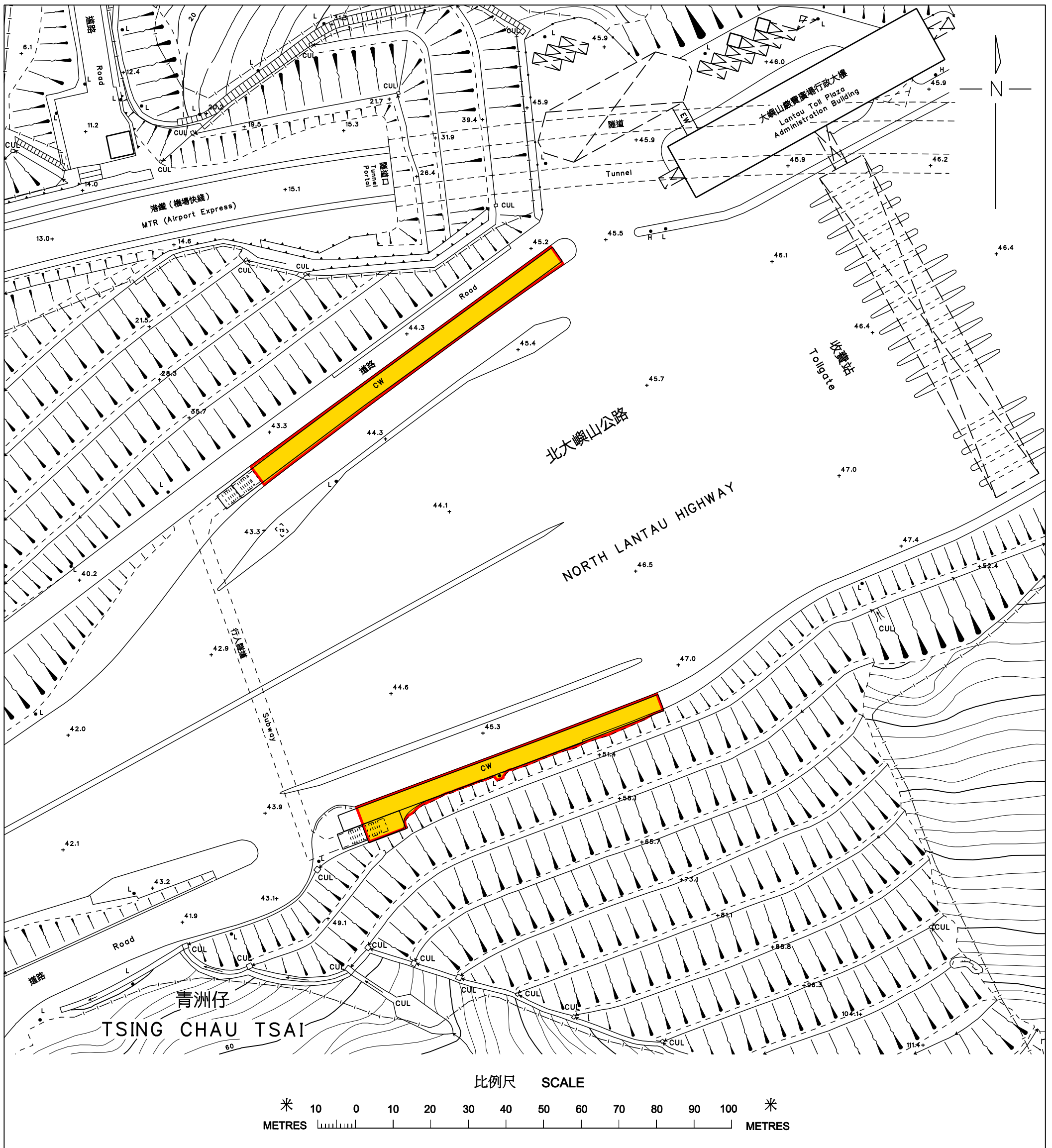
簽署  
食物及衛生局局長  
Secretary for Food and Health

Signed  
陳肇始教授  
Prof. CHAN Siu-chee  
Sophia

07 / 05 / 2018

圖則編號  
Plan No. DH/TCO/E-001V1





《吸煙(公眾衛生)條例》(第371章)

Smoking (Public Health) Ordinance (Cap. 371)

指定禁止吸煙區

大嶼山繳費廣場巴士轉乘處

Designated No Smoking Area

Lantau Toll Plaza 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/E-002V1

簽署

Signed

食物及衛生局局長  
Secretary for Food and Health

陳肇始教授  
Prof. CHAN Siu-chee  
Sophia

07 / 05 / 2018

底圖由地政總署測繪處提供

Base map from Survey and Mapping Office, Lands Department

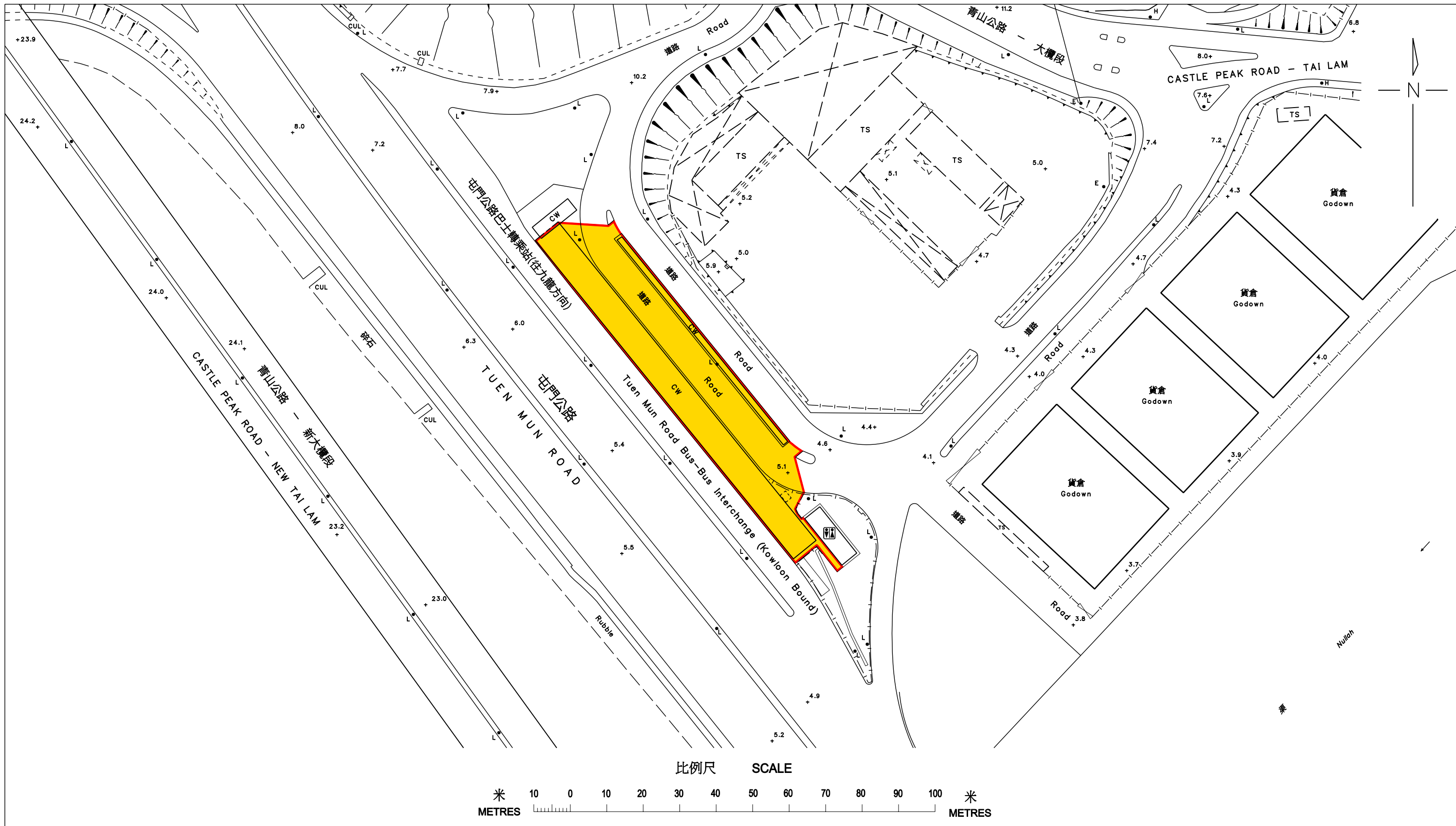
底圖之圖例可參閱圖則編號

DH/TCO/L-001V1

Legend of base map refers Plan No.

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

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Base map from Survey and Mapping Office, Lands Department  
底圖之圖例可參閱圖則編號 DH/TCO/L-001V1  
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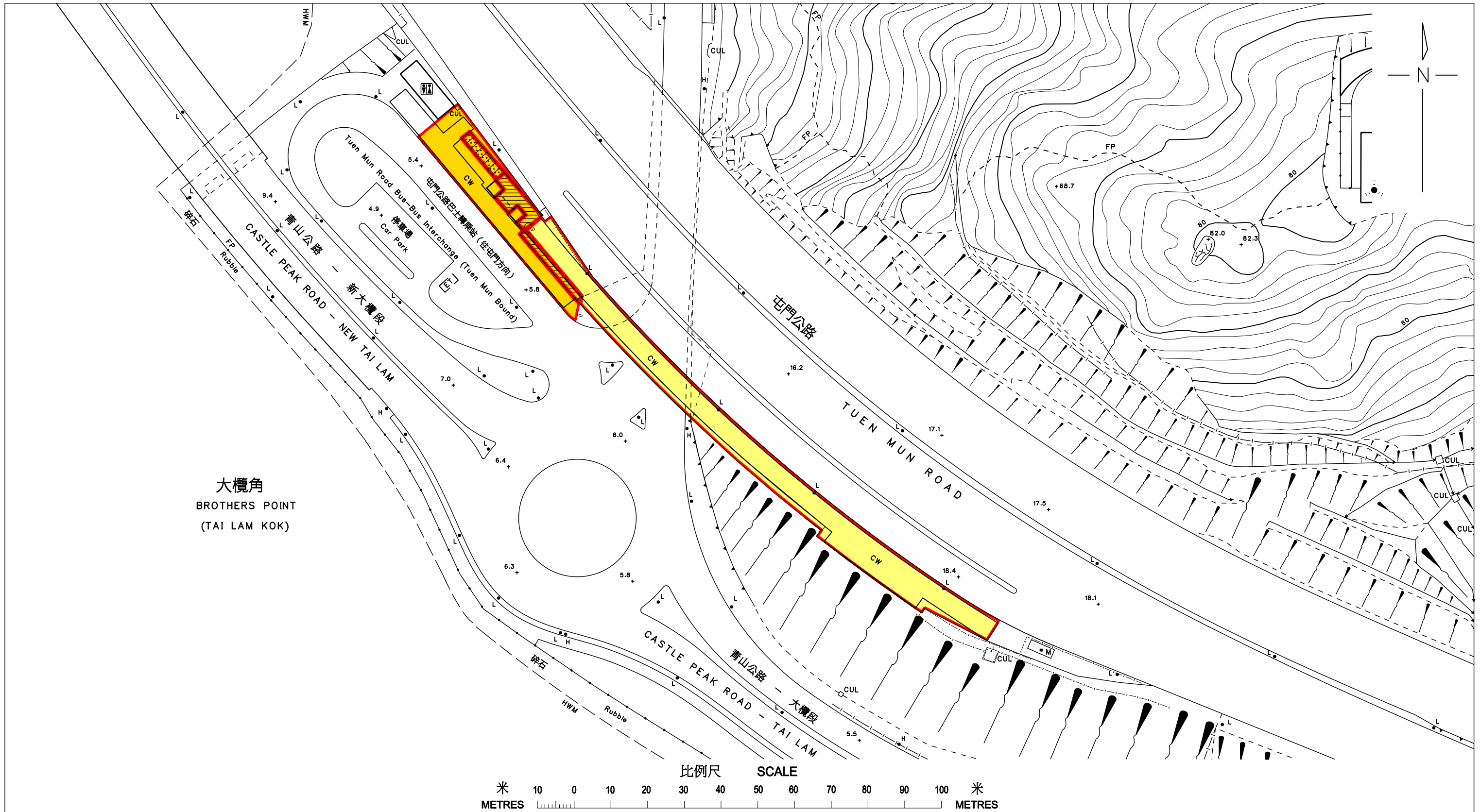
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《吸煙(公眾衛生)條例》(第371章)  
Smoking (Public Health) Ordinance (Cap. 371)  
指定禁止吸煙區 - 屯門公路巴士轉乘處(往九龍方向)  
Designated No Smoking Area -  
Tuen Mun Road Bus Interchange (Kowloon Bound)

簽署 Signed  
食物及衛生局局長 陳肇始教授  
Secretary for Food and Health Prof.CHAN Siu-chee  
Sophia  
07 / 05 / 2018

圖則編號 Plan No. DH/TCO/E-003V1

日期 Date: 05 / 2018



- 禁止吸煙區 (只限高架行人路)  
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 (只限地面及行人樓梯)  
No Smoking Area (Ground Level and Staircase Only)
- 禁止吸煙區 (只限地面及高架行人路)  
No Smoking Area (Ground Level and Elevated Walkway 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 - 屯門公路巴士轉乘處(往屯門方向)**  
**Designated No Smoking Area -**  
**Tuen Mun Road Bus Interchange (Tuen Mun Bound)**

|                               |                               |
|-------------------------------|-------------------------------|
| 簽署                            | Signed                        |
| 食物及衛生局局長                      | 陳肇始教授                         |
| Secretary for Food and Health | Prof. CHAN Siu-chee<br>Sophia |
| 07 / 05 / 2018                |                               |

圖則編號  
Plan No. **DH/TCO/E-004V1**

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