

**LEGISLATIVE COUNCIL BRIEF**

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

**SMOKING (PUBLIC HEALTH) ORDINANCE  
(AMENDMENT OF SCHEDULE 2) ORDER 2021**

**INTRODUCTION**

On 12 August 2021, 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 2021 (“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”) and reflect the changes in two BIs and adjoining facilities which are already designated as NSAs.

**JUSTIFICATIONS**

**Background**

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 expectation and acceptance of the community. With the concerted efforts by the Government and other stakeholders over the years, smoking prevalence among persons aged 15 and above in Hong Kong has dropped from over 20% in the 1980s to around 10% in recent years.

**Designation of NSAs**

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*) or in public transport carriers (in contravention of *section 4*) commits an offence. Part 1 of Schedule 2 to Cap. 371 specifies a number of designated NSAs. According to section 16A of Cap.

371, SFH may by order published in the Gazette amend the Schedules.

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. Amongst other measures, we have extended the smoking ban to the following 11 BIs at tunnel portal areas through previous exercises of amending Schedule 2 to Cap. 371 in 2016 and 2018 respectively –

- (a) Cross-Harbour Tunnel Bus Interchange;
- (b) Lion Rock Tunnel Bus Interchange;
- (c) Shing Mun Tunnel 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;
- (h) Tsing Sha Highway Bus Interchange;
- (i) Tuen Mun Road Bus Interchange;
- (j) Lantau Toll Plaza Bus Interchange; and
- (k) Aberdeen Tunnel Bus Interchange.

5. Enforcement at these designated NSAs was largely smooth and the smoking ban in these areas was welcomed by the public in general.

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

6. According to the Transport Department, there are 14 BIs that lead to expressways or tunnels, of which the following three have not yet been designated as NSAs–

- (a) Tuen Mun-Chek Lap Kok Tunnel Bus Interchange;
- (b) Fanling Highway Bus Interchange; and
- (c) Tseung Kwan O Tunnel Bus Interchange.

There are about 6 to 30 bus routes at each of these three BIs for passenger interchange.

7. Subsequent to the last designation exercise in 2018, we propose to amend Schedule 2 to Cap.371 to extend the statutory smoking ban to the abovementioned three BIs and adjoining facilities leading to expressways or tunnels and reflect the changes in two BIs and adjoining facilities which are already designated as NSAs, namely Cross Harbour Tunnel Bus Interchange and

Eastern Harbour Crossing Bus Interchange.

## **IMPLEMENTATION**

8. The exact boundary of NSAs is shown coloured orange and edged red on the plans of the BIs at **Annex B** signed by SFH. The proposed NSAs will cover the boarding and waiting areas of the BIs, as well as the areas that passengers will pass by in the course of accessing and interchanging among different bus routes.

9. To facilitate implementation, the Tobacco and Alcohol Control Office (“TACO”) under the Department of Health (“DH”) will arrange to display signs, publicity materials, and other demarcations including markings on the ground as appropriate to indicate clearly and visibly to the public the boundaries of the NSAs, having regard to their respective physical settings. The plans showing the boundaries of the NSAs will be posted at prominent positions such as the main entrances and exits.

10. After the legislative amendments come into operation on 31 December 2021, TACO 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**

11. The Amendment Order amends Part 1 of Schedule 2 to Cap. 371 to designate the three BIs and adjoining facilities leading to expressways or tunnels in Hong Kong as NSAs and reflect the changes in two BIs and adjoining facilities which are already designated as NSAs. Subject to negative vetting by the LegCo, the Amendment Order will come into operation on 31 December 2021.

## **LEGISLATIVE TIMETABLE**

12. The legislative timetable is as follows –

Publication of Amendment Order in the Gazette	20 August 2021
Tabling at LegCo	25 August 2021

## **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 current binding effect of the principal ordinance. Additional staffing and financial implications, if any, arising from the implementation of the proposal will be absorbed within the existing manpower and financial resources of DH. It has insignificant family and no economic, environmental, competition, sustainability or gender 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 BIs and adjoining facilities have been deposited in the Land Registry for inspection by the public. They will also be posted on TACO's website before the amendments take effect.

## **ENQUIRIES**

15. Enquiry on this brief can be addressed to Mr Alexander LEUNG, Assistant Secretary (Health) 5A, Food and Health Bureau (Tel: 3509 8961; E-mail: askleung@fhb.gov.hk).

**Food and Health Bureau  
Department of Health  
18 August 2021**

## Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2021

(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 December 2021.

### 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(b)—

**Repeal**

“and part of the adjoining elevated walkways”

**Substitute**

“, part of the adjoining elevated walkways and the adjoining bus stop at Salisbury Road”.

- (2) Schedule 2, Part 1, item 21(b)—

**Repeal**

“DH/TCO/T-001V1”

**Substitute**

“DH/TCO/T-001V2”.

- (3) Schedule 2, Part 1, item 21(b)—

**Repeal**

“4 December 2015”

**Substitute**

“12 August 2021”.

- (4) Schedule 2, Part 1, item 21(c)—

**Repeal**

“DH/TCO/T-002V1”

**Substitute**

“DH/TCO/T-002V2”.

- (5) Schedule 2, Part 1, item 21(c)—

**Repeal**

“4 December 2015”

**Substitute**

“12 August 2021”.

- (6) Schedule 2, Part 1, item 21(k)—

**Repeal**

“; and”

**Substitute a semicolon.**

- (7) Schedule 2, Part 1, item 21(l)—

**Repeal**

“Registry.”

**Substitute**

“Registry;”.

- (8) Schedule 2, Part 1, after item 21(l)—

**Add**

“(m) Fanling Highway Bus Interchange, located on the Fanling Highway southbound, as shown coloured orange and

edged red on Plan No. DH/TCO/E-005V1, signed by the Secretary on 12 August 2021 and deposited in the Land Registry;

- (n) Tseung Kwan O Tunnel Bus Interchange, located on both sides of the toll plaza of the Tseung Kwan O Tunnel, together with the adjoining staircases and ramps and part of the adjoining elevated walkways, as shown—
  - (i) coloured orange and edged red;
  - (ii) coloured orange stippled black and edged red; and
  - (iii) coloured orange hatched black and edged red,on Plan No. DH/TCO/E-006V1, signed by the Secretary on 12 August 2021 and deposited in the Land Registry;
- (o) Tuen Mun-Chek Lap Kok Tunnel Bus Interchange, located at Tuen Mun Chek Lap Kok Tunnel Road, as shown coloured orange and edged red on Plan No. DH/TCO/T-009V1, signed by the Secretary on 12 August 2021 and deposited in the Land Registry.”

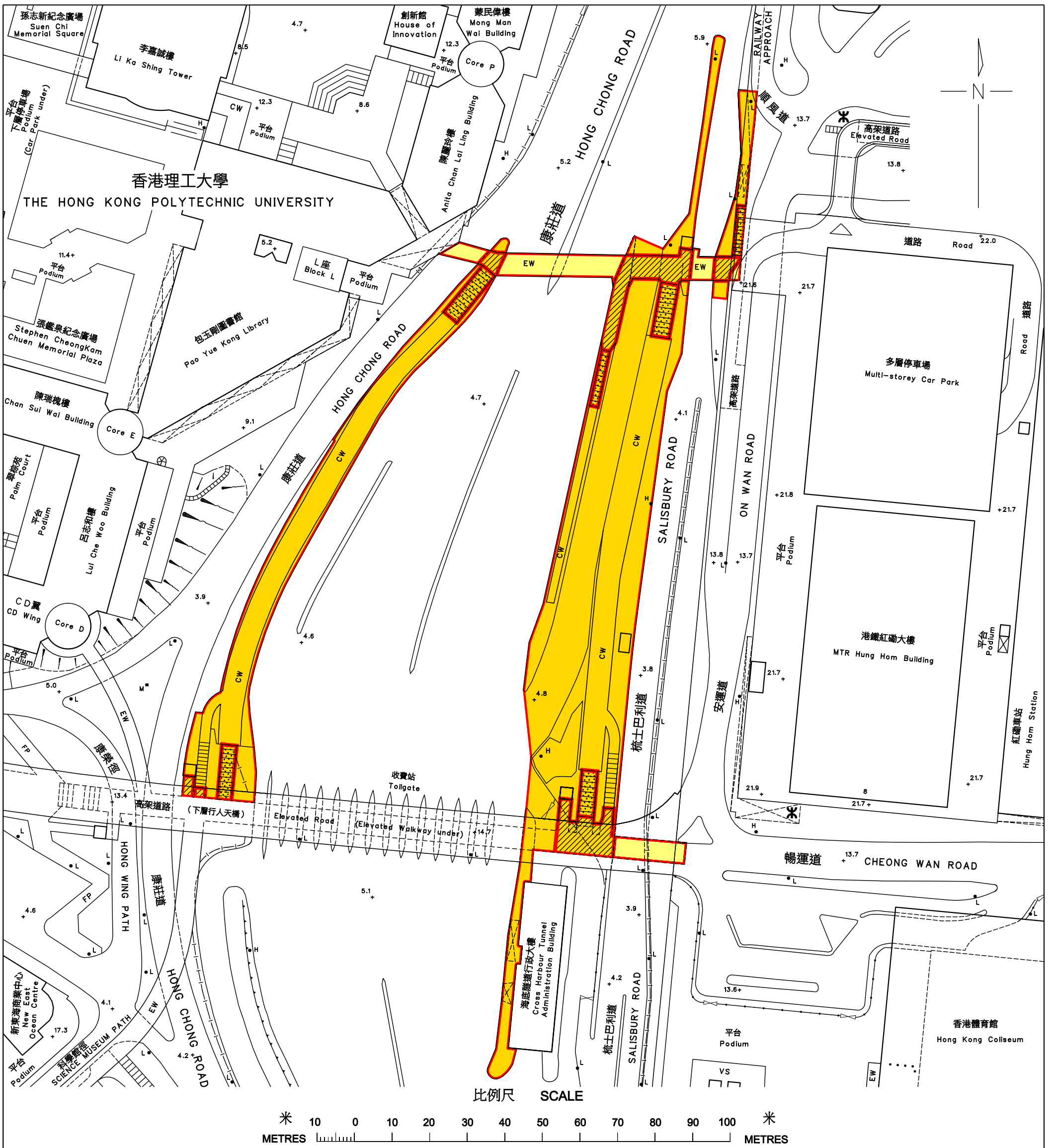
Secretary for Food and Health

2021

**Explanatory Note**

This Order amends Part 1 of Schedule 2 to the Smoking (Public Health) Ordinance (Cap. 371) (*Ordinance*) to—

- (a) update the descriptions of 2 no smoking areas under the Ordinance; and
- (b) designate 3 bus interchanges and their adjoining facilities as no smoking areas under the Ordinance.



《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-001V2

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

12 / 08 / 2021

底圖由地政總署測繪處提供

Base map from Survey and Mapping Office, Lands Department

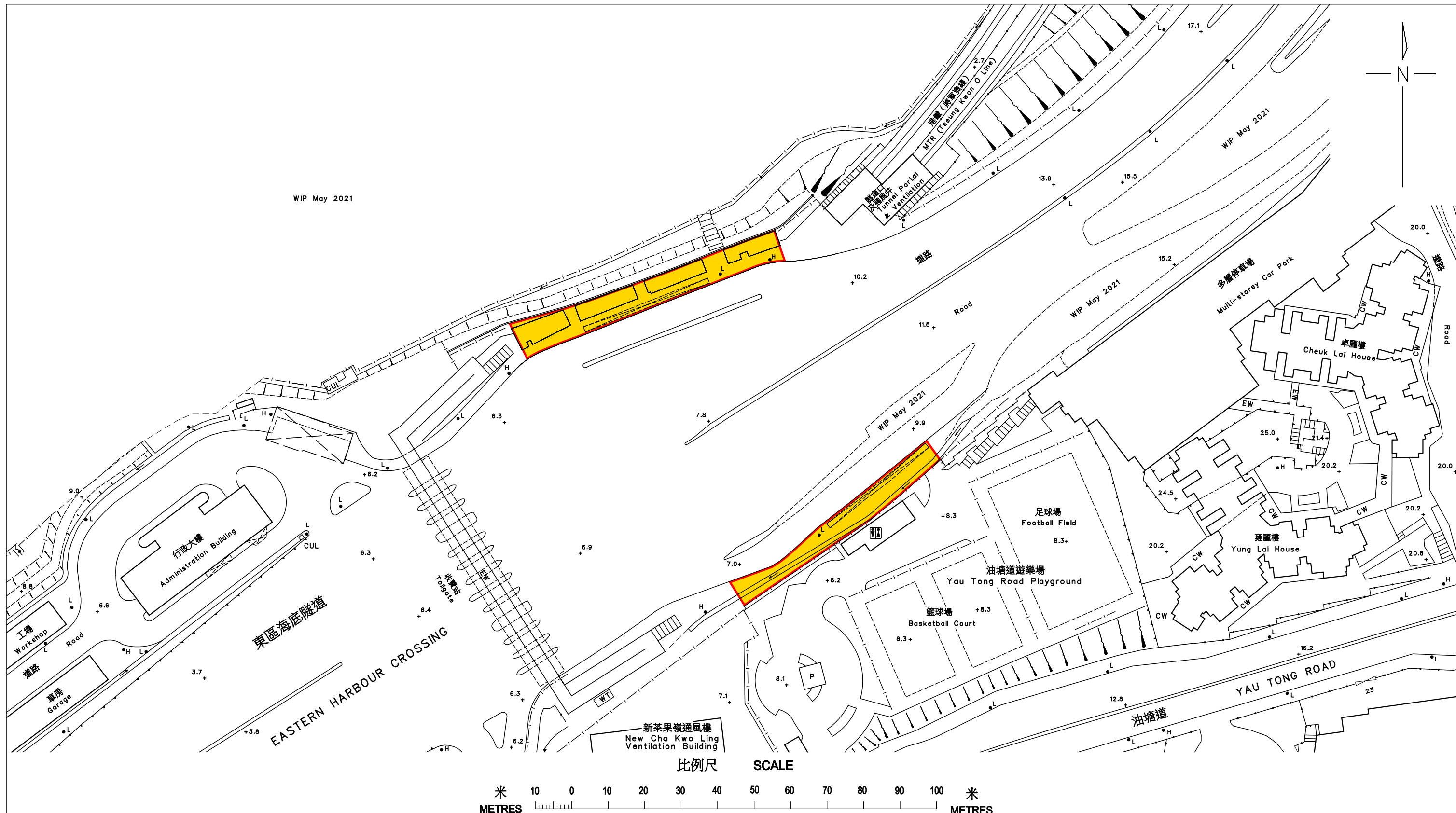
底圖之圖例可參閱圖則編號

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  
 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 - 東區海底隧道巴士轉乘處**  
**Designated No Smoking Area - Eastern Harbour Crossing Bus Interchange**

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
12 / 08 / 2021	
圖則編號 Plan No.	DH/TCO/T-002V2





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

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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 - 粉嶺公路巴士轉乘處

Designated No Smoking Area - Fanling Highway Bus Interchange

簽署

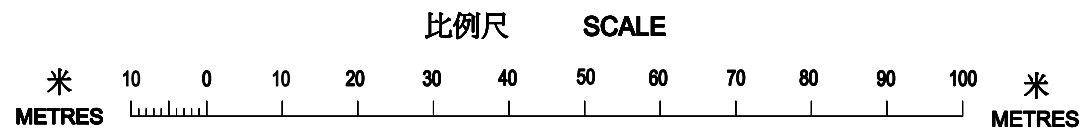
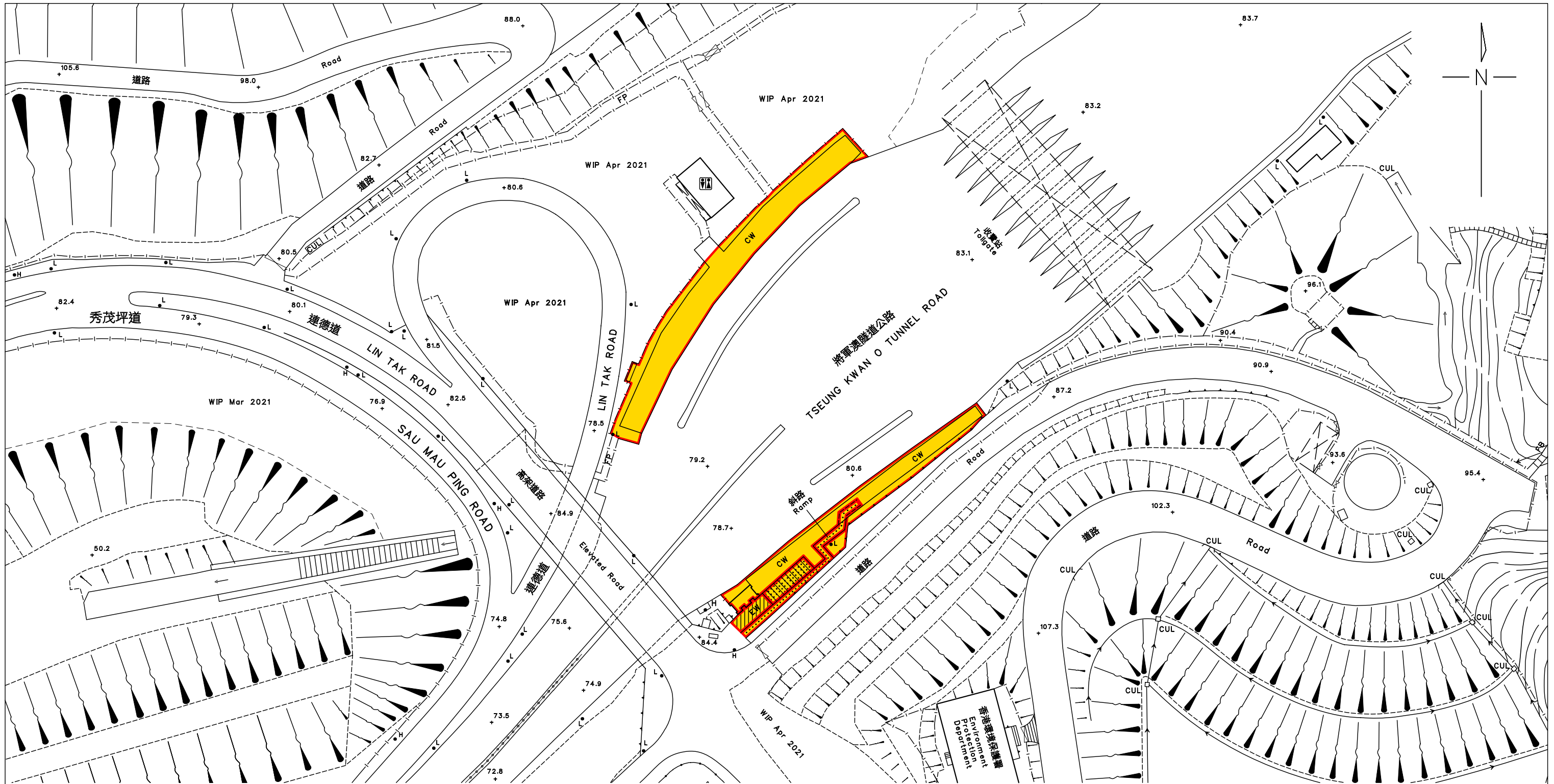
Signed

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

陳肇始教授  
Prof.CHAN Siu-chee  
Sophia

12 / 08 / 2021

圖則編號  
Plan No. DH/TCO/E-005V1



- 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/斜路)  
No Smoking Area (Ground Level and Staircase / Ramp 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)

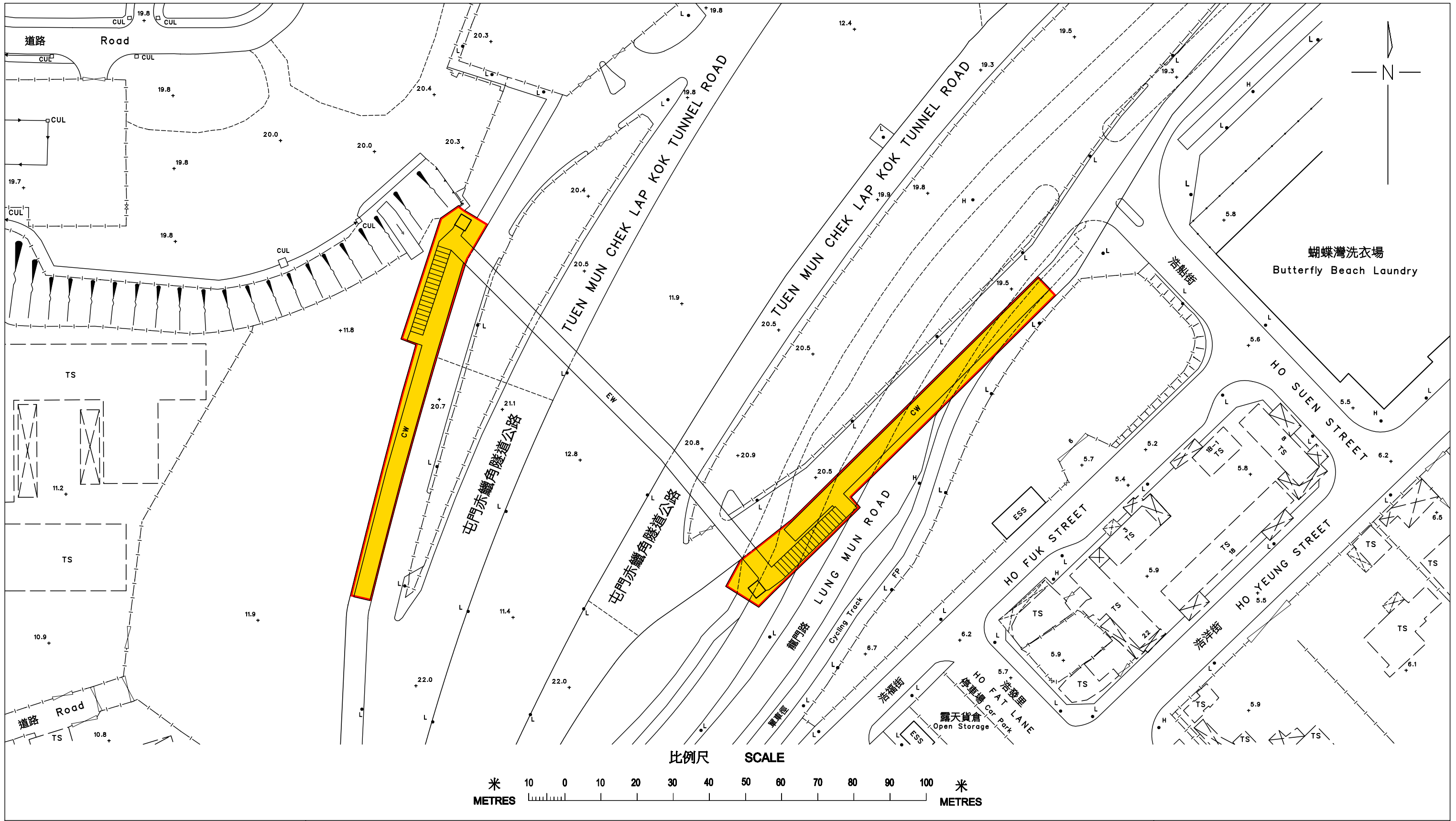
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《吸煙(公眾衛生)條例》(第371章)  
Smoking (Public Health) Ordinance (Cap. 371)  
指定禁止吸煙區 - 將軍澳隧道巴士轉乘處

Designated No Smoking Area - Tseung Kwan O Tunnel Bus Interchange

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
12 / 08 / 2021	

圖則編號  
Plan No. DH/TCO/E-006V1



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

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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-赤鱗角隧道巴士轉乘處

Designated No Smoking Area - Tuen Mun-Chek Lap Kok Tunnel Bus Interchange

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

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