

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATIONS NO. A/NE-LYT/650 to 652**

- Applicants** : Mr. NG Sun Ping (Application No. A/NE-LYT/650)  
Mr. NG Man Fung (Application No. A/NE-LYT/651)  
Mr. NG Man Ho (Application No. A/NE-LYT/652)  
all with TSANG Lim Cho as the Power of Attorney and represented by Euro Asia  
Construction Engineering Limited
- Sites** : Lot 1526 S.B (Application No. A/NE-LYT/650)  
Lot 1526 S.C (Application No. A/NE-LYT/651)  
Lot 1526 S.D (Application No. A/NE-LYT/652)  
all in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
- Site Areas** : 238.6 m<sup>2</sup> (about) (Application No. A/NE-LYT/650)  
148.2 m<sup>2</sup> (about) (Application No. A/NE-LYT/651)  
277.0 m<sup>2</sup> (about) (Application No. A/NE-LYT/652)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No.  
S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposals**

- 1.1 The applicants, who claimed to be indigenous villagers<sup>1</sup>, seek planning permissions to build a proposed NTEH (Small House) on each of the application sites (the Sites) in Kan Tau Tsuen, Fanling (**Plans A-1 and A-2a**). The Sites fall within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within “AGR” zone is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).

---

<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claimed themselves to be indigenous villagers of Kan Tau Tsuen of Fanling Heung. Their eligibility for Small House concessionary grants have yet to be ascertained.

1.2 Details of each of the three proposed NTEHs (Small Houses) are as follows:

Total Floor Area	:	195.09 m <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area	:	65.03 m <sup>2</sup>

Layouts of the three proposed Small Houses (including septic tanks) under applications No. A/NE-LYT/650 to 652 are shown on **Drawings A-1 to A-3** respectively. The applicants indicate that the uncovered areas of their Sites would be used as landscaping areas of their proposed Small Houses.

1.3 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia to Ic**) and supplementary information (**Appendix Id**) which were received on 3.4.2018 and 9.4.2018 respectively.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed in part 9 of the Application Forms in **Appendices Ia to Ic** respectively. They can be summarized as follows:

- (a) the applicants are indigenous villagers and majority of the proposed houses fall within the village 'environs' ('VE') of Kan Tau Tsuen. The applications are in line with the Small House Policy;
- (b) the sites are bounded by village settlements to the east and 'VE' to the west. It would be a natural extension to accommodate Small Houses on the Sites;
- (c) the Sites are the only available land for the Small House development of which are vacant. The proposed developments would improve the visual and environment qualities of the area; and
- (d) the Small House development is compatible with the surrounding land use and would not create significant adverse impacts on the surrounding, and there are approved Small House applications in close proximity to the Sites.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicants are the sole "current land owner" of their respective lots. Detailed information would be deposited at the meeting for Members' inspection.

## **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

## 5. Previous Application

There is no previous application for the Sites.

## 6. Similar Applications

- 6.1 There are 83 similar applications for Small House development within / partly within the “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 74 applications involving 59 sites were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between March 2001 and January 2018 mainly on the considerations that the applications complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand; the proposed Small House developments were not incompatible with the surrounding rural and village environment; the proposed developments were not expected to have significant adverse traffic, drainage, environmental and/or landscape impacts on the surrounding area; and similar applications were approved by the Committee. Some of the approval cases are in the vicinity of the Sites and their Small House grant applications have been approved (**Plan A-2a**).
- 6.3 The other nine applications involving eight sites were rejected by the Committee or the Board on review between September 2003 and December 2017 mainly on the considerations that the proposed Small House developments did not comply with the Interim Criteria as the footprints of the proposed Small Houses fell mainly/entirely outside the “V” zone and the ‘VE’ of a recognized village; the proposed developments were not in line with the planning intention of the “AGR” zone; and approval of the applications would set undesirable precedents for similar applications.
- 6.4 Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

## 7. The Sites and their Surrounding Areas (Plans A-1, A-2a and A-2b, A-3 and A-4)

- 7.1 The Sites are:
- (a) located to the west of the “Village Type Development” (“V”) zone of Kan Tau Tsuen;
  - (b) flat and covered with wild grass except part of the application site No. A/NE-LYT/652 is hard paved; and
  - (c) accessible by vehicular access which running along the northeastern boundary of the Sites.

7.2 The surrounding areas have the following characteristics:

- (a) rural landscape character dominated by village houses, temporary structures, active/fallow agricultural land, tree groups and vacant land;
- (b) to the east are village houses in “V” zone and to the southeast are the sites of planning applications for Small House developments approved by the Committee (**Plans A-2a and A-2b**);
- (c) to the east is the village proper of Kan Tau Tsuen; and
- (d) to the north and west are active/fallow agricultural land and vacant/unused land.

## 8. Planning Intention

The planning intention of the “AGR” zone in Lung Yeuk Tau and Kwan Tei South area is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

## 9. Comments from Relevant Government Departments

9.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?  - The Sites  - Footprints of the proposed Small Houses	-  -	100%  100%	The Sites and footprints of the proposed Small Houses fall entirely within “AGR” zone.
2.	Within ‘VE’?  - The Sites (Application No. A/NE-LYT/650)  (Application No. A/NE-LYT/651)  (Application No. A/NE-LYT/652)  - Footprints of the proposed Small Houses (Application No. A/NE-LYT/650)	35.2%  58.1%  44.2%  61.5%	64.8%  41.9%  55.8%  38.5%	DLO/N, LandsD advises that majority portion of the footprints of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	(Application No. A/NE-LYT/651)	78.8%	21.2%	
	(Application No. A/NE-LYT/652)	95.2%	4.8%	
3.	Sufficient land in “V” zone to satisfy outstanding Small House application and 10-year Small House demand?		✓	<ul style="list-style-type: none"> <li>- Land required to meet the Small House demand in Kan Tau Tsuen: about 4.3 ha (equivalent to 172 Small House sites). The outstanding Small House applications for Kan Tau Tsuen are 76 while the 10-year Small House demand forecast for the same village is 96.</li> <li>- Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen: about 2.28 ha (equivalent to 91 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Sites are vacant land overgrown with grasses. Agricultural lives in the vicinity are active and agricultural infrastructure such as road access and water supply are available. The applications are not supported from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The proposed Small House is not incompatible with the surrounding rural setting and environment dominated by village houses and active/fallow agricultural land ( <b>Plan A-2a</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the applications. The applicants are reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> <li>- The Commissioner for Transport (C for T) has reservation on the applications and advises that Small House developments should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed developments are not expected to be significant, such type of developments outside the “V” zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.</li> <li>- Notwithstanding the above, the applications involve construction of three Small Houses. She considers that the applications can be tolerated unless they are rejected on other grounds.</li> </ul>
10.	Drainage impact?	✓		The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> <li>- The Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the applications from the landscape planning point of view.</li> <li>- the Sites are located in an area of rural landscape character which comprises village houses, farmlands (mostly abandoned), scattered tree groups and Tan Shan River. The proposed Small Houses are not entirely incompatible with the surrounding environment. According to her site record, the Sites are covered with wild grasses except part of the application site No. A/NE-LYT/652 is hard paved. No significant vegetation or</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				trees are found on site. There is a village road linking the Sites to Sha Tau Kok Road. Significant landscape impact arising from the developments is not expected.  - An approval condition on the submission and implementation of landscape proposal is recommended.
13.	Local objections conveyed by DO?	✓		District Officer (North) (DO(N)) advises that he has consulted the locals. The Chairman of Fanling District Rural Committee (FDRC) has no comment on the applications while the Indigenous Inhabitant Representative and the Resident Representative of Kan Tau Tsuen object to the applications mainly on the grounds of the proposed Small Houses falling outside 'VE' and creating traffic and drainage impacts on the surrounding areas.

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Details of comments from Government departments are at **Appendix IV**.

- (a) District Lands Officer/North, Lands Department;
- (b) Chief Engineer/Mainland North, Drainage Services Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Director of Environmental Protection;
- (e) Director of Agriculture, Fisheries and Conservation;
- (f) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (g) Director of Fire Services;
- (h) Commissioner for Transport; and
- (i) District Officer (North), Home Affairs Department.

9.3 The following Government departments have no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

## **10. Public Comments Received During Statutory Publication Period**

On 10.4.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, four public comments for each of applications were received (**Appendix V**). A North District Council member supports all applications as they can provide convenience to the villagers, whereas the Chairmen of FDRC and Sheung

Shui District Rural Committee indicate no comment on the applications. An individual raises objection to the applications mainly on the grounds that septic tanks may contaminate water sources; approval of the applications encourage the creation of further village clusters; and the Small House developments are not for the genuine demand of indigenous villagers.

## 11. Planning Considerations and Assessments

- 11.1 The proposed Small House developments are not in line with the planning intention of the “AGR” zone which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kan Tau Tsuen is 76 while the 10-year Small House demand forecast for the same village is 96. According to the latest estimate by PlanD, about 2.28 ha (equivalent to 91 Small House sites) of land are available in the “V” zone of Kan Tau Tsuen for Small House development (**Plan A-2b**). DLO/N, LandsD advises that majority portion of the footprints of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen.
- 11.3 The Sites are flat, covered with grass except part of the application site No. A/NE-LYT/652 is hard paved (**Plans A-3 and A-4**), and situated to the west of the “V” zone of Kan Tau Tsuen. The village proper of Kan Tau Tsuen is located to the east and there are approved Small House applications in the vicinity of the Sites. The proposed Small Houses are not incompatible with the surrounding rural setting dominated by village houses, temporary structures, active/fallow agricultural land, tree groups and vacant land. Significant adverse landscape impact arising from the proposed developments is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. C for T has reservation on the applications and considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed developments involve three Small Houses, they could be tolerated. Other Government departments consulted, including DEP, CE/MN of DSD and D of FS, have no adverse comment on or no objection to the applications.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen (**Plan A-2a**). While land available within the “V” zone is insufficient to fully meet the future Small House demand, it is noted that land (about 2.28 ha or equivalent to 91 Small House sites) is still available within the “V” zone to meeting the outstanding 76 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. However, it should be noted that the proposed Small Houses are in close proximity to the “V” zone of Kan Tau Tsuen and there are existing and approved Small Houses forming new village clusters in the locality



(Plans A-2a and A-2b). Relevant Government departments, except DAFC, have no objection to/ no adverse comment on the applications.

- 11.5 There are 83 similar applications for Small House development in the vicinity of the Sites and 74 of them were approved by the Committee between 2001 and 2018 (**Plan A-1**) mainly on considerations that they complied with the Interim Criteria; the proposed Small Houses were not incompatible with the surrounding rural environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. Some of the approved cases are in close proximity to the Sites (**Plan A-2a**). The other nine similar applications were rejected by the Committee or the Board on review between 2003 and 2017 mainly on the grounds that the proposed Small House developments did not comply with the Interim Criteria as the proposed Small House footprints fell mainly/entirely outside the “V” zone and the ‘VE’ of a recognized village. There has not been major change in planning circumstances of the area since the approval/rejection of these similar applications.
- 11.6 Regarding the adverse public comment and local objections conveyed by DO(N), HAD mainly on the potential traffic, drainage and sewerage impacts on the surrounding areas, Government departments’ comments and planning assessments above are relevant.

## 12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 1.6.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

### Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

- 12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members’ reference:
- (a) the proposed development is not in line with the planning intention of the “AGR”

zone in the Lung Yeuk Tau and Kwan Tei South area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and

- (b) land is still available within the “V” zone of Kan Tau Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the date when the validity of the permissions should expire.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

### **14. Attachments**

<b>Appendices Ia to Ic</b>	Application Forms with Attachments received on 3.4.2018
<b>Appendix Id</b>	Supplementary Information received on 9.4.2018
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
<b>Appendix III</b>	Similar s.16 Applications for Proposed House (New Territories Exempted House (NTEH) - Small House) within/partly within the “AGR” Zone in the vicinity of the Sites in the Lung Yeuk Tau and Kwan Tei South area
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawings A-1 to A-3</b>	Layout Plans
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available within the “V” zone of Kan Tau Tsuen for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos