

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LYT/659 to 661

- Applicants** : Mr. PANG Ming Kai (Application No. A/NE-LYT/659)
Mr. PANG Kwok Wai (Application No. A/NE-LYT/660)
Mr. PANG David Kai On (Application No. A/NE-LYT/661)
all represented by Mr. LEE Wai Leung
- Sites** : Lot 1773 S.B ss.1 (Application No. A/NE-LYT/659)
Lot 1773 S.B ss.2 (Application No. A/NE-LYT/660)
Lot 1773 S.B ss.4 (Application No. A/NE-LYT/661)
all in D.D. 76, Ma Mei Ha Leng Tsui, Fanling, New Territories
- Site Areas** : 139.1 m² (about) (Application No. A/NE-LYT/659)
161.8 m² (about) (Application No. A/NE-LYT/660)
151.1 m² (about) (Application No. A/NE-LYT/661)
- 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
- Zonings** : “Agriculture” (“AGR”) (Applications No. A/NE-LYT/659 and 660)
“AGR” (about 98% of the Site) and (Application No. A/NE-LYT/661)
“Village Type Development” (“V”) (about 2% of the Site)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposals

- 1.1 The applicants, who claimed to be indigenous villagers¹, seek planning permissions to build a proposed NTEH (Small House) on each of the application sites (the Sites) in Ma Mei Ha Leng Tsui, Fanling (**Plans A-1 and A-2a**). The Sites of applications No. A/NE-LYT/659 and 660 fall within an area zoned “AGR” whereas the Site of application No. A/NE-LYT/661 falls within an area mostly zoned “AGR” with minor portion zoned “V” 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)’ is a use always permitted within the “V” zone while ‘House (NTEH only, other than rebuilding of NTEH or

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

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).

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

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

Layouts of the three proposed Small Houses (including septic tanks) under applications No. A/NE-LYT/659 to 661 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 and circulation areas of their proposed Small Houses.

1.3 Each of the Sites is the subject of one previous application for the development of a Small House submitted by same applicant as the current application. Applications No. A/NE-LYT/535 to 537 were approved by the Rural and New Town Planning Committee (the Committee) of the Board on 4.4.2014. The planning permissions lapsed on 5.4.2018. Compared with the previous applications, the site areas and major development parameters including the layouts of the proposed Small Houses under the current applications generally remain the same.

1.4 In support of the applications, the applicants have submitted the following documents:

- (a) Application Forms with attachments received on **Appendices Ia to Ic** 23.4.2018
- (b) Supplementary Information received on 29.4.2018 **Appendix Id**
- (c) Further Information received on 4.6.2018 **Appendix Ie**

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 of a recognised village in Fanling Heung;
- (b) the Sites are the subject of previous planning permissions; and
- (c) Small House Grant applications for the respective Sites are still under processing by Lands Department.

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 Applications

5.1 Each of the Sites is the subject of one previous application (No. A/NE-LYT/535 to 537) for the development of a Small House submitted by same applicant as the current application. The applications were approved by the Committee on 4.4.2014 mainly on the considerations that the applications generally 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 at the time of consideration; the proposed Small House developments were not incompatible with the surrounding rural environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. The planning permissions lapsed on 5.4.2018. Compared with the previous applications, the site areas and major development parameters including the layouts of the proposed Small Houses under current applications generally remain the same.

5.2 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

6. Similar Applications

6.1 There are 49 similar applications in the vicinity of the Sites for Small House development within/partly within the "AGR" zone in Lung Yeuk Tau and Kwan Tei South area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. Except application No. A/NE-LYT/267 which was rejected by the Committee in September 2003 as it fell entirely outside both the "V" zone and the 'VE' of a recognized village, all the other 48 similar applications involving 42 sites were approved with conditions by the Committee between April 2003 and May 2018. These applications were approved 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; and the proposed developments were not expected to have significant adverse impacts on the surrounding area.

6.2 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

6.3 For Members' information, applications No. A/NE-LYT/653 to 658 and 663 for proposed houses (NTEHs – Small Houses) to the northwest and south of the Sites respectively (**Plan A-2a**) will be considered by the Committee in the same meeting.

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) flat and partly covered by grass and partly paved;
- (b) part of the Sites of applications No. A/NE-LYT/659 and 661 encroach onto a track and footpath respectively (**Plan A-2a**);
- (c) located close to the village proper of Mai Mei Ha Leng Tsui (**Plan A-2a**); and
- (d) not accessible by vehicular access.

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 north and south are village houses/village houses under construction, and vacant land with applications approved by the Committee (**Plan A-2a**);
- (c) to the east is the existing village proper of Ma Mei Ha Leng Tsui; and
- (d) to the further southwest is a site zoned “Government, Institution or Community” on the OZP which is used by ‘Life Building Centre’ (生命導向中心).

8. Planning Intentions

8.1 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.

8.2 The planning intention of the “V” zone in the Lung Yeuk Tau and Kwan Tei South area is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

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 (Application No. A/NE-LYT/659)	-	100%	- The Sites of applications No. A/NE-LYT/659 and 660 fall entirely

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	(Application No. A/NE-LYT/660) (Application No. A/NE-LYT/661) - Footprints of the proposed Small Houses	- 2% -	100% 98% 100%	within “AGR” zone whereas the Site of application No. A/NE-LYT/661 falls mostly within “AGR” zone with minor portion zoned “V”. - The footprints of the proposed Small Houses fall entirely within “AGR” zone.
2.	Within ‘VE’? - The Sites - Footprints of the proposed Small Houses	100% 100%	- -	DLO/N, LandsD advises that the Sites fall entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.
3.	Sufficient land in “V” zone to satisfy outstanding Small House application and 10-year Small House demand?		✓	- Land required to meet the Small House demand in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 4.4 ha (equivalent to 176 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster are 44 while the 10-year Small House demand forecast for the same village cluster is 132. - Land available to meet 10-year Small House demand within the “V” zone in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 1.01 ha (equivalent to 40 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) states that active agricultural activities are found in the vicinity of the Sites and agricultural infrastructure such as road access and water source is 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 Houses are not incompatible with the surrounding rural setting and environment dominated by village houses and active/fallow agricultural land (Plan A-2a).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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.
9.	Traffic impact?	✓		<p>- 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.</p> <p>- 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.</p>
10.	Drainage impact?	✓		The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping impact?		✓	<p>- The Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning point of view.</p> <p>- the Sites are located in an area of rural landscape character which predominantly comprises village houses, farmlands and tree groups. The proposed Small Houses are not incompatible with the surrounding environment. The Sites are either vacant or covered with wild grasses. No significant vegetation or trees are found within the Sites. Significant landscape impact arising from the developments is not expected.</p> <p>- An approval condition on the submission and implementation of landscape proposal is recommended.</p>
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 Leng Tsui object to the applications.

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 V**.

- (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 4.5.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, five public comments for each of applications were received (**Appendix VI**). 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. The remaining comments submitted from the Designing Hong Kong Limited and an individual raise objection to the applications mainly on the grounds that the proposed Small Houses are not in line with the planning intention of “AGR” zone; land is still available in “V” zone of Ma Mei Ha Tsuen and Leng Pei Tsuen; the Small House developments are not for the genuine demand of indigenous villagers; and approval of the applications will set undesirable precedents for similar applications in the area.

11. Planning Considerations and Assessments

- 11.1 The Sites of applications No. A/NE-LYT/659 and 660 fall within an area zoned “AGR” whereas the Site of application No. A/NE-LYT/661 falls within an area mostly zoned “AGR” with minor portion zoned “V” on the OZP. 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 The applications are cross-village Small House applications. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 44 while the 10-year Small House demand forecast for the same village cluster is 132. According to the latest estimate by PlanD, a total of about 1.01 ha (equivalent to 40 Small House sites) of land are available within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the Sites fall entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.
- 11.3 The Sites are flat, partly covered with grass and partly paved (**Plans A-2a, A-4a and A-4b**). The village proper of Ma Mei Ha Leng Tsui 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 track and footpath within the Sites of applications No. A/NE-LYT/659 and 661 respectively, DO(N), HAD advises that they are not constructed and maintained by his office. DLO/N, LandsD advises that if the track and footpath within the Sites are affected by the proposed developments, his office may consider if necessary and

appropriate to include a clause to ensure that free passage on the portions of the track and footpath is to be provided at all times within the Sites, should the Small House grant applications be approved.

- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the 'VE' of Ma Mei Ha Leng Tsui and Leng Pei Tsuen (**Plan A-2a**) and land available within the "V" zone is insufficient to meet the 44 outstanding Small House applications and the future Small House demand forecast of 132 (in total about 4.4 ha or equivalent to 176 Small House sites). It is noted that there are new Small Houses under construction and approved Small House applications at different stages of development nearby, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**). Besides, the Sites are the subject of previous applications (No. A/NE-LYT/535 to 537) for Small House developments approved by the Committee on 4.4.2014.
- 11.6 There are 49 similar applications for Small House development in the vicinity of the Sites and 48 of them were approved with conditions by the Committee between 2003 and 2018 (**Plan A-1**) mainly on the considerations that the applications complied with the Interim Criteria; the proposed Small House developments were not incompatible with the surrounding rural and village environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. The only rejected application (No. A/NE-LYT/267) was rejected by the Committee in 2003 mainly on the grounds of the footprint of the proposed Small House falling entirely outside both the "V" zone and the 'VE' of a recognized village and thus did not comply with the Interim Criteria. There has not been any major change in planning circumstances of the area since the approval of the similar applications. At the same meeting, the Committee will also consider other similar applications (No. A/NE-LYT/653 to 658 and 663) for seven Small Houses.
- 11.7 Regarding the adverse public comment mainly on the planning intention of "AGR" zone, land available in "V" zone, the Small House developments not meeting the genuine demand of indigenous villagers, and the setting of undesirable precedents, 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 15.6.2022, 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 VII**.

- 12.3 Alternatively, should the Committee decide to reject the applications, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "AGR" zone in 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.

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

Appendices Ia to Ic	Application Forms with Attachments received on 23.4.2018
Appendix Id	Supplementary Information received on 29.4.2018
Appendix Ie	Further Information received on 4.6.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous s.16 Applications
Appendix IV	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
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-3	Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the "V" zone of Ma

Mei Ha Leng Tsui and Leng Pei Tsuen for Small House
Development
Aerial Photo
Site Photos

Plan A-3
Plan A-4

PLANNING DEPARTMENT
JUNE 2018