

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

**APPLICATIONS NO. A/NE-LYT/675 and 676**

<b><u>Applicant</u></b>	: Mr. PANG Chi Yeung Mr. LAU King Wai All represented by Asia Tact Planning & Consultant Co. Ltd.	(Application No. A/NE-LYT/675) (Application No. A/NE-LYT/676)
<b><u>Site</u></b>	: Lot 1773 S.A ss.2 Lot 1773 S.A ss.4 all in D.D. 76, Leng Tsui Tsuen, Fanling, New Territories	(Application No. A/NE-LYT/675) (Application No. A/NE-LYT/676)
<b><u>Site Area</u></b>	: 141.5 m <sup>2</sup> (about) 196.3 m <sup>2</sup> (about)	(Application No. A/NE-LYT/675) (Application No. A/NE-LYT/676)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)	
<b><u>Plan</u></b>	: Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17	
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)	
<b><u>Application</u></b>	: Proposed House (New Territories Exempted House (NTEH) - Small House)	

**1. The Proposal**

1.1 The applicants, who claimed to be indigenous villagers<sup>1</sup>, seeks planning permission to build a proposed NTEH (Small House) on each of the application sites (the Sites) in Leng Tsui 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)’ is a Column 2 use within “AGR” zone, which requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the two 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>

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants of applications No. A/NE-LYT/675 and No. A/NE-LYT/676 claimed himself to be indigenous villagers of Fanling Village and Tan Chuk Hang Village of Fanling Heung respectively. Their eligibility for Small House concessionary grants have yet to be ascertained.

- 1.3 The applicants indicate that the uncovered areas of the Sites would be used as garden of the proposed Small Houses. Layouts of the proposed Small Houses (including septic tank) are shown on **Drawings A-1 and A-2**.
- 1.4 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia and Ib**) which were received on 21.8.2018.

## **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 and Ib** respectively. They can be summarized as follows:

- (a) the applicants of applications No. A/NE-LYT/675 and No. A/NE-LYT/676 are indigenous villagers of Fanling Village and Tan Chuk Hang Village of Fanling Heung respectively and are entitled for construction of Small Houses under the Small House Policy;
- (b) the applicants do not possess any land within the “Village Type Development” (“V”) zone and their respective village ‘environs’;
- (c) the Sites are within the village ‘environs’ (‘VE’) of Ma Mei Ha Leng Tsui and are close to the village proper to the northeast and some newly built village houses forming a new village cluster to the north and southwest (**Plan A-2**); and
- (d) the applicant of the application No. A/NE-LYT/675 claimed himself an indigenous villager of Fanling Village, which he indicated that the village has been fully developed.

## **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 59 similar applications involving 42 sites in the vicinity of the Site 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. All similar applications were approved with conditions by the Committee between April 2003 and Oct 2018 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 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 summarised at **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Sites are:

- (a) currently vacant, flat and covered by wild grass;
- (b) located to the immediate west of the village proper of Mai Mei Ha Leng Tsui (**Plan A-2a**); and
- (c) not accessible by vehicular access.

7.2 The surrounding areas have the following characteristics:

- (a) rural landscape character dominated by village houses, vacant land, temporary structures, active/fallow agricultural land and tree groups and;
- (b) surrounded by village houses under construction, and vacant land with applications for Small House developments 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 "Government, Institution or Community" zone currently occupied by the 'Life Building Centre'.

## 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.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> <li>- The Sites</li> <li>- Footprint of the proposed Small Houses</li> </ul>	-	100%	The Sites and footprint of the proposed Small Houses fall entirely within “AGR” zone.
		-	100%	
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- The Sites</li> <li>- Footprint of the proposed Small Houses</li> </ul>	100%	-	DLO/N, LandsD advises that the Sites fall entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.
		100%	-	
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<ul style="list-style-type: none"> <li>- Land required to meet the Small House demand in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 4.38 ha (equivalent to 175 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster are 43<sup>2</sup> while the 10-year Small House demand forecast for the same village cluster is 132.</li> <li>- Land available to meet the Small House demand within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 0.91 ha (equivalent to 36 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
	Sufficient land in “V” zone to meet outstanding Small House application?		✓	
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Sites are fallow land covered with weeds. Agricultural activities in the vicinity are active. Accessibility of the subject site is good. While no direct water source was available, ground water would be an alternative choice for irrigation. The applications are not supported from the agriculture point of view as the Site possesses potential for agricultural rehabilitation.

<sup>2</sup> Among the 43 outstanding Small House applications, 4 of them fall within the “V” zone and 39 straddle or outside the “V” zone. For those 39 applications straddling or being outside the “V” zone, 28 of them have already obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/ development?	✓		The Sites are located to the east of Ma Mei Ha Leng Tsui and the proposed Small Houses are 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.
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 development outside the "V" zone, if permitted, will set an undesirable precedent case 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 one Small House. She considers that the applications can be tolerated unless it is 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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>- With reference to the latest aerial photo of 2018, the Sites are located to the western fringe of Ma Mei Ha Leng Tsui. It is of an area of rural landscape character which comprises of village houses, temporary structures and abandoned farmlands.</li> <li>- The Sites are covered with wild grasses without any trees and both abut to a village track that connects to local road (<b>Plan A-2</b>). The areas surrounding the Sites are mostly either hard paved areas or abandoned farmlands. Amongst them, permission of some Small House developments had been granted in the last few years.</li> <li>- The proposed Small Houses are not incompatible with the surrounding environment. Significant landscape impact arising from the proposed Small House developments is not expected.</li> <li>- An approval condition on the submission and implementation of landscape proposal is recommended for application No. A/NE-LYT/676 but not for No. A/NE-LYT/675 in view of the site area of individual lot.</li> </ul>
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) and the Indigenous Inhabitant Representative of Leng Tsui have no comment on the applications while the Resident Representative of Leng Tsui objected 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 28.8.2018, the applications were published for public inspection. During the statutory public inspection period, nine public comments were received for each application (**Appendix V**). A North District Council (NDC) member, the Chairman of Sheung Shui District Rural Committee and the Chairman of FDRC indicate no comment on both applications. Five villagers of the Ma Mei Ha Leng Tsui Tsuen object to both applications (with the same wording) mainly on the grounds that the proposed Small Houses may cause adverse drainage impacts on the surrounding area and cause flooding and there is no pedestrian passage for the villagers. An individual raises object to both applications on the considerations that the proposed Small House are not in line with planning intention of the “AGR” zone; the proposed Small House should be connected to proper drainage system instead of septic tank; and approval of the applications will set an undesirable precedent for similar applications in the area.

## **11. Planning Considerations and Assessments**

11.1 The Sites fall within an area zoned “AGR” on the OZP. The proposed Small Houses development 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 43 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 0.91 ha (equivalent to 36 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 Site falls entirely within

the 'VE' of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.

- 11.3 The Sites are flat and covered by wild grass (**Plans A-2a and A-4**). The village proper of Ma Mei Ha Leng Tsui is located to the immediate east and there are approved Small House applications in the vicinity of the Site. The proposed Small Houses are not incompatible with the surrounding rural setting dominated by village houses, vacant land, active/fallow agricultural land and tree groups. Significant adverse landscape impact arising from the proposed developments are 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 each application involves one Small Houses, it 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 footprint of the proposed Small House falls within the 'VE' of Ma Mei Ha Leng Tsui and Leng Pei Tsuen (**Plan A-2a**) and land available (about 0.91 ha or equivalent to 36 Small House sites) within the "V" zone is insufficient to meet the 43 outstanding Small House applications and the 10-year demand forecast for 132 Small Houses. Besides, the Site is in close proximity to the "V" zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and bounded by existing cluster of village houses and Small House applications approved at different stages of development nearby. The implementation of which are forming a new village cluster in the vicinity of the Site (**Plan A-2a**).
- 11.5 There are 59 similar applications involving 42 sites for Small House development in the vicinity of the Sites. All similar applications were approved with conditions by the Committee between April 2003 and Oct 2018 (**Plan A-1**) 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. There has not been any major change in planning circumstances of the area since the approval of these similar applications.
- 11.6 Regarding the local objection and adverse public comment mainly on the planning intention of "AGR" zone, the obstruction of village road, adverse drainage and traffic problems, the lack of connection to proper drainage system 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 19.10.2022, 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 for Application No. A/NE-LYT/675

- (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; and
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Approval Conditions for Application No. A/NE-LYT/676

- (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 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 are no strong planning justifications in the submissions 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 permission.
- 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 permission, and the date when the validity of the permission 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 &amp; Ib</b>	Application Forms with Attachments received on 21.8.2018
<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 &amp; A-2</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 Ma Mei Ha Leng Tsui and Leng Pei Tsuen for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
OCTOBER 2018**