

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/570

<u>Applicant</u>	Mr. Chan Wah Kwong represented by Rocky Fung Surveying Company
<u>Site</u>	Lot 857 RP in D.D. 9, Tai Wo Village, Tai Po, New Territories
<u>Site Area</u>	About 149.4m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Tai Wo Village¹ as confirmed by the Indigenous Inhabitant Representative (IIR), seeks planning permission to build an NTEH (Small House) on the application site (the Site)(**Plan A-1**). 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 requires planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed Small House development are as follows:

Total floor area	:	195.09m ²
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

1.3 Layout plan and sewerage connection plan of the proposed Small House are shown on **Drawings A-1** and **A-2** respectively.

1.4 In support of the application, the applicant has submitted application form and attachments on 24.6.2019 (**Appendix I**).

2. Justifications from the Applicant

The justifications puts forth by the applicant in support of the application are detailed

¹ The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

in Appendix 4 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the applicant is an indigenous villager of Tai Wo Village and the Site falls within the village 'environs' ('VE') of Tai Wo Village;
- (b) land available for Small House development becomes less. There are similar applications in the surrounding area which were approved by the Board in the past few years, and existing Small Houses are found to the north and west of the Site;
- (c) the applicant's previous application (No. A/NE-KLH/445) was rejected in 2013 due to Drainage Services Department (DSD)'s objection in that public sewers were not available for connection. The last previous application (No. A/NE-KLH/543) was also rejected in 2018 although the applicant had submitted sewerage connection proposal and obtained consent from relevant lot owners as well as all Government departments including DSD had no objection to the application;
- (d) under the last previous application No. A/NE-KLH/543, land available within the "V" zone (i.e. blue cloud areas) of Yuen Leng for Small House development as estimated by PlanD was incorrect. The blue cloud areas can only accommodate 50 Small Houses as most of them are used as access roads/private gardens or owned by Tso Tong. Moreover, most of the blue cloud areas are private land and the availability of Government land is very limited. According to the information provided by the three Indigenous Inhabitant Representatives (IIRs) of Yuen Leng (Lei Uk and Yip Uk) to Lands Department in 2017, the 10-year Small House demand for Yuen Leng is 257. Hence, it is obvious that land available within the "V" zone (50 Small House sites) is insufficient to meet the Small House demand of 257 houses; and
- (e) there are Small Houses to the north and west of the Site, and pedestrian walkway and local track to the east and south respectively. The surrounding area has been developed or is being developed. The Site has no water supply and hence no potential for agricultural rehabilitation.

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

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for 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. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest Interim Criteria with

criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

5. Background

The Site is currently not subject to any active enforcement action. However, it was the subject of a previous enforcement case against parking of vehicles (Ref. E/NE-KLH/65). Enforcement Notice was issued on 4.10.2010 and Compliance Notice was issued on 7.3.2011 upon discontinuance of the parking of vehicles.

6. Previous Applications

- 6.1 The Site is the subject of three previous applications (No. A/NE-KLH/275, 445 and 543) for Small House development. Application No. A/NE-KLH/275 submitted by a different applicant was approved with conditions by the Committee on 21.9.2001 before criterion (i) of the Interim Criteria came into effect on 23.8.2002 mainly on the grounds that the site fell within the 'VE' and there was a general shortage of land in meeting the Small House demand at the time of consideration.
- 6.2 Applications No. A/NE-KLH/445 and 543 were submitted by the same applicant of the current application. Application No. A/NE-KLH/445 was rejected by the Board on review on 22.2.2013 mainly for the reason of not complying with the Interim Criteria in that the proposed Small House located within the WGG would not be able to be connected to the planned sewerage system in the area as there was no fixed implementation programme at that juncture. For Application No. A/NE-KLH/543, it was rejected by the Board on review on 14.12.2018 mainly on the grounds of being not in line with the planning intention of "AGR" zone and land still being available within the "V" zone. Compared with the last previous application (No. A/NE-KLH/543), there is no change to the footprint and major development parameters of the proposed Small House under the current application.
- 6.3 Details of the previous applications are summarized at **Appendix III** and the location is shown on **Plans A-1 and A-2a**.

7. Similar Applications

- 7.1 There are 50 similar applications for Small House development within the same "AGR" zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Out of them, 29 cases were approved and 21 were rejected.
- 7.2 Among the 29 approved applications, seven of them (No. A/NE-KLH/245, 271, 272, 273, 277, 279 and 281) were approved with conditions by the Committee before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Another 15 applications (No. A/NE-KLH/304, 328, 339, 341, 345, 346, 368, 378, 379, 391, 392, 402, 403, 409, 410) were approved with conditions by the Committee between 2003 and 2010, before the planned

sewerage scheme for Yuen Leng Village was degazetted on 29.10.2010, mainly on the considerations of being generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the 'VE'; there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system. The remaining seven applications (No. A/NE-KLH/438, 459, 467, 482, 487, 488 and 491) were approved with conditions by the Committee between 2012 and May 2015 mainly on considerations that there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration; no adverse traffic, landscape, sewerage and drainage impacts on the surrounding area; and the application sites of No. A/NE-KLH/438, 459 and 491 were the subject of previous approvals (No. A/NE-KLH/345, 339 and 346) submitted by the same applicants. Moreover, although the planned sewerage scheme serving Yuen Leng Village was degazetted in 2010, Environmental Protection Department (EPD) and Water Supplies Department (WSD) indicated that stakeholders would continue to be consulted with a view to gazetting the scheme again and they had no objection to the applications provided that the construction of the Small House would not commence before the completion of the planned sewerage system and the proposed houses should be connected to future public sewers when available.

7.3 For the 21 rejected applications (No. A/NE-KLH/299, 300, 303, 312, 321, 360, 362, 374, 380, 430, 439, 443, 444, 455, 478, 479, 483², 484, 526, 544 and 548), they were rejected by the Committee or the Board on review between 2003 and 2018 mainly on the grounds of being not in compliance with the Interim Criteria in that the proposed developments located within WGG were not able to be connected to the planned sewerage system in the area either because the application sites were not covered by any planned public sewers or there was no fixed programme for implementation of the planned sewerage system serving Yuen Leng Village, and/or being not in line with the planning intention of "AGR" zone. Applications No. A/NE-KLH/526, 544 and 548 were also rejected after the Board's adoption of the more cautious approach in August 2015 as land was still available within the "V" zone for Small House development.

7.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.

8. **The Site and Its Surrounding Areas** (Plans A-1, A-2a and photos on Plans A-3 and A-4)

8.1 The Site is:

- (a) hard paved and partly fenced off;
- (b) a piece of residual land bounded by footpaths and local tracks; and
- (c) accessible by a local track.

² Application No. A/NE-KLH/483 is the subject of an appeal lodged by the applicant in 2015, which was dismissed by the Town Planning Appeal Board on 1.9.2016.

- 8.2 The surrounding areas are predominantly rural in character occupied by village houses, temporary domestic structures and abandoned agricultural fields.

9. Planning Intention

The planning intention of the “AGR” zone 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.

10. Comments from Relevant Government Departments

- 10.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the Small House - Application site		100% 100%	- Both the Site and the proposed Small House footprint fall entirely within “AGR” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%		- Both the Site and the proposed Small House footprint fall entirely within ‘VE’. - The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand: about 16.75 ha (equivalent to 670 Small House sites). The outstanding Small House applications are 176 ³ while the 10-year Small House demand forecast is 494.

³ Among the 176 outstanding Small House application, 102 of them fall within the “V” zone and 74 straddle or outside the “V” zone. For those 74 applications straddling or being outside the “V” zone, 16 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 9.25 ha (equivalent to about 369 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application as the Site is surrounded by domestic structures and the potential for agricultural rehabilitation is considered low.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character comprising village houses and fallow agricultural land.
6.	Within WGG?	✓		- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application subject to the proposed house would be connected to the public sewer at his own cost (Plan A-2a).
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) in general has reservation on the application but considers that the application only involving development of a Small House can be tolerated on traffic grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>objection to the application from public drainage viewpoint.</p> <p>- Approval condition on the submission and implementation of drainage proposal is required.</p>
11.	Sewerage impact?	✓		<p>- The Director of Environmental Protection (DEP) has no objection to the application as the applicant has proposed to connect the proposed Small House to the existing public sewer at his own cost.</p> <p>- The Chief Engineer/Consultant Management, Drainage Services Department (CE/CM, DSD) has no comment on the application subject to the applicant's completion of the necessary sewerage works to connect the discharge from the proposed development to the public sewerage at his own cost.</p>
12.	Landscape impact?		✓	<p>- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective as adverse impact on landscape resources due to the proposed development is not anticipated.</p>
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Other detailed comments are at **Appendix V**.

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Commissioner for Transport;
- (d) Director of Environmental Protection;

- (e) Chief Engineer/Construction, Water Supplies Department;
- (f) Chief Engineer/Mainland North, Drainage Services Department;
- (g) Chief Engineer/Consultants Management, Drainage Services Department;
- (h) Director of Fire Services; and
- (i) Chief Town Planner/Urban Design and Landscape, Planning Department.

10.3 The following government departments have no objection to/no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Project Manager/North, Civil Engineering and Development Department;
- (d) Director of Electrical and Mechanical Services; and
- (e) District Officer/Tai Po, Home Affairs Department.

11. Public Comment Received During Statutory Publication Period (Appendix VI)

On 2.7.2019, the application was published for public inspection. During the statutory public inspection period, one public comment was received from MTR Corporation Limited raising concern that the proposed development would be subject to potential noise impact from the East Rail Line (EAL).

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed Small House development at the Site falling entirely within “AGR” zone on the OZP. The proposed development is not in line with the planning intention of “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Nevertheless, DAFC has no strong view on the application as the Site is surrounded by domestic structures and the potential for agricultural rehabilitation is considered low.
- 12.2 According to the DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Yuen Leng, Kau Lung Hang and Tai Wo Villages is 176 while the 10-year Small House demand forecast for the same villages is 494. Based on the latest estimate by PlanD, about 9.25 ha of land (or equivalent to about 369 Small House sites) is available within the “V” zones of the concerned villages (**Plan A-2b**). As the proposed Small House footprint falls entirely within the ‘VE’ of the concerned village, DLO/TP, LandsD has no objection to the application.
- 12.3 The Site, located at the southern fringe of Yuen Leng, is currently vacant and hard paved (**Plans A-2a and A-4**). The proposed development is not incompatible with the surrounding area which is predominantly rural in character with active/fallow agricultural land and village houses (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application from the

landscape planning perspective as there are no trees within the Site and adverse impact on landscape resources due to the proposed development is not anticipated.

- 12.4 The Site falls within the upper indirect WGG. The applicant proposes to connect the proposed Small House to the existing public sewer at a considerable distance of about 150m to the west of the Site (**Plan A-2a**). Both DEP and CE/C of WSD have no objection to the application provided that the applicant shall connect the proposed Small House to the public sewer at their own cost, and adequate space within the Site will be reserved for connection. Other Government departments consulted including C for T, CE/MN and CE/CM of DSD, D of FS, CHE/NTE of HyD and H(GEO) of CEDD have no objection to/ no adverse comment on the application.
- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint falls within the 'VE' of Tai Wo (**Plan A-1**) and the proposed development located within WGG would be able to be connected to public sewerage system (**Plan A-2a**). While land available within the "V" zones (about 9.25 ha or equivalent to about 369 Small House sites) is insufficient to fully meet the future Small House demand, it is capable to meet the outstanding 176 Small House applications (**Plan A-2b**). It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in 2015. 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. In this regard, 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.
- 12.6 The applicant points out that land available within the "V" zone of Yuen Leng as estimated by PlanD under the previous application No. A/NE-KLH/543 could only accommodate 50 Small Houses as most of the available land are owned by Tso Tong or used as access roads or private gardens, and hence it could not meet the 10-year Small House demand of Yuen Leng Village (i.e. 257 Small Houses)⁴ as provided by the IIRs. It should be noted that PlanD, in estimating land available for Small House development in the "V" zone, has adopted a consistent approach and would make use of the latest available information. In general, land occupied by road, existing and approved village houses, steep slope, major tree cluster and stream buffer will be deducted from the area available for Small House development. Land ownership is not a material consideration as it could be subject to change and land parcel could be subdivided to suit development needs. For land currently being occupied by private gardens of local villagers or other temporary uses, they will be included as a source of land supply.
- 12.7 The Site is the subject of three previous applications (No. A/NE-KLH/275, 445 and 543). Application No. A/NE-KLH/275 submitted by a different applicant was approved in 2001 before criterion (i) of the Interim Criteria came into

⁴ The 10-year Small House demand figure of 257 was quoted by the applicant in his submission whereas the recent figure of 261 was provided by the IIRs as at 11.5.2019 via DLO/TP under the current application.

effect on 23.8.2002. For applications No. A/NE-KLH/445 and 543, they were submitted by the same applicant of the current application and were rejected by the Board on review on 22.2.2013 and 14.12.2018 respectively. While the former application was rejected mainly because the proposed development would not be able to be connected to the planned sewerage system, the latter application was rejected mainly because land was still available within the "V" zone. Compared with the last previous application (No. A/NE-KLH/543), there is no change to the footprint and development parameters of the proposed Small House under the current application.

- 12.8 As shown on **Plan A-2a**, there are 30 similar applications in close vicinity of the Site with 16 cases approved and 14 cases rejected. Of the approved cases, six of them (No. A/NE-KLH/271, 272, 273, 277, 279 and 281) were approved before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Another eight applications (No. A/NE-KLH/328, 341, 345, 346, 391, 392, 402 and 409) were approved between 2004 and 2010 before the planned sewerage scheme for Yuen Leng Village was degazetted on 29.10.2010, mainly on the considerations that there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system. The remaining two applications (No. A/NE-KLH/438 and 491) were approved in 2012 and 2015 respectively mainly on considerations that there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration; the application sites were the subject of previous approvals (applications No. A/NE-KLH/345 and 346) submitted by the same applicants; and EPD and WSD had no objection to the applications provided that the construction of the Small House would not commence before the completion of the planned sewerage system and the proposed houses should be connected to future public sewers when available.
- 12.9 For the 14 rejected applications (No. A/NE-KLH/299, 303, 321, 360, 362, 374, 380, 444, 455, 478, 479, 484, 526 and 548), they were rejected between 2003 and 2018 mainly on the grounds that the proposed developments located within WGG were not able to be connected to the planned sewerage system in the area either because the application sites were not covered by any planned public sewers or there was no fixed programme for implementation of the planned sewerage system serving Yuen Leng Village. Applications No. A/NE-KLH/526 and 548 were also rejected after the Board's adoption of a more cautious approach in August 2015 as land was still available within the "V" zone for Small House development. The planning circumstances of the current application are similar to these two rejected applications (No. A/NE-KLH/526 and 548) in that land was still available within the "V" zone for Small House development.
- 12.10 Regarding the public comment raising concerns on the application on the grounds as detailed in paragraph 11 above, Government departments' comments and the planning assessments in above paragraphs are relevant.

13. Planning Department's Views

13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone, which 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. 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 Yuen Leng, Kau Lung Hang and Tai Wo 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 infrastructure and services.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 16.8.2023, 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 submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

Advisory Clauses

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

14. Decision Sought

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

14.2 Should the Committee decide to reject the application, Members are invited to

advise what reason(s) for rejection should be given to the applicant.

- 14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.

15. Attachments

Appendix I	Application form and attachments received on 24.6.2019
Appendix II	Interim Criteria for Consideration of application for NTEH/Small House in New Territories
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Government departments' detailed comments
Appendix VI	Public comment
Appendix VII	Recommended advisory clauses
Drawings A-1 and A-2	Layout plan and sewerage connection proposal submitted by the applicant
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within "V" zone
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT
AUGUST 2019**

Relevant Revised Interim Criteria for Consideration of
Application for NTEH/Small House in New Territories
(promulgated on 7.9.2007)

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development^);

- (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
 - (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.
- ^i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

Previous s.16 Applications at the Application Site

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/275	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1 – A5

Approval Conditions

- A1. The provision of drainage facilities
- A2. The disposal of spoils during the site formation and construction period
- A3. The provision of septic tank and soakaway pit for foul effluent disposal and sewerage connection at a distance of not less than 30m from any watercourses
- A4. The provision of fire services installations
- A5. The submission and implementation of landscaping proposal

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/445	Proposed House (New Territories Exempted House - Small House)	22.2.2013 on review	R1
A/NE-KLH/543	Proposed House (New Territories Exempted House - Small House)	14.12.2019 on review	R2, R3

Rejection Reasons

- R1 The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (Interim Criteria) in that the proposed Small House located within the water gathering ground (WGG) would not be able to be connected to the planned sewerage system in the area as there was no fixed programme for implementation of such system at this juncture.

- R2 The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention.
- R3 Land was still available within the “Village Type Development” (“V”) zone of Tai Wo which was primarily intended for Small House development. It was 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.

Similar Applications
in the vicinity of the Site within the same “Agriculture” Zone
on the Kau Lung Hang Outline Zoning Plan

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/245	Proposed New Territories Exempted House (NTEH) (Small House)	22.12.2000	A1 – A3
A/NE-KLH/271	Proposed New Territories Exempted House (NTEH) (Small House)	30.3.2001	A1, A2, A5, A6
A/NE-KLH/272	Proposed New Territories Exempted House (NTEH) (Small House)	20.4.2001	A1, A2, A5, A6
A/NE-KLH/273	Proposed New Territories Exempted House (NTEH) (Small House)	4.5.2001	A1 – A3, A5, A6
A/NE-KLH/277	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1 – A3, A5, A6
A/NE-KLH/279	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1 – A3, A5, A6
A/NE-KLH/281	Proposed New Territories Exempted House (NTEH) (Small House)	7.12.2001	A1, A5, A6
A/NE-KLH/304	Proposed New Territories Exempted House (NTEH) (Small House)	21.2.2003	A1, A3, A7, A8
A/NE-KLH/328	Proposed House (New Territories Exempted House) (Small House)	17.12.2004	A1, A2, A5, A6

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/339	Proposed House (New Territories Exempted House – Small House)	29.7.2005	A1, A3, A7, A8
A/NE-KLH/341	Proposed New Territories Exempted House (Small House) (NTEH)	14.10.2005	A1, A3, A7, A8, A12
A/NE-KLH/345	Proposed House (New Territories Exempted House) (NTEH) (Small House)	23.12.2005	A1, A7, A8
A/NE-KLH/346	Proposed House (New Territories Exempted House) (NTEH) (Small House)	17.2.2006	A1, A3, A7, A8
A/NE-KLH/368	Proposed House (New Territories Exempted House – Small House)	18.4.2008	A1, A3, A7, A8, A9
A/NE-KLH/378	Proposed House (New Territories Exempted House – Small House)	19.12.2008	A1, A3, A7, A8, A9
A/NE-KLH/379	Proposed House (New Territories Exempted House – Small House)	19.12.2008	A1, A3, A7, A8, A9
A/NE-KLH/391	Proposed Two Houses (New Territories Exempted Houses – Small Houses)	23.4.2010	A1, A7 – A10
A/NE-KLH/392	Proposed Two Houses (New Territories Exempted Houses – Small Houses)	23.4.2010	A1, A3, A7, A8, A9
A/NE-KLH/402	Proposed House (New Territories Exempted House – Small House)	28.5.2010	A1, A7, A8, A9, A11
A/NE-KLH/403	Proposed House (New Territories Exempted House – Small House)	28.5.2010	A1, A3, A7, A8, A9

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/409	Proposed House (New Territories Exempted House – Small House)	30.7.2010	A1, A3, A7, A8, A9
A/NE-KLH/410	Proposed House (New Territories Exempted House – Small House)	30.7.2010	A1, A3, A7, A8, A9
A/NE-KLH/438	Proposed House (New Territories Exempted House – Small House)	1.6.2012	A1, A3, A7, A8, A9
A/NE-KLH/459	Proposed House (New Territories Exempted House – Small House)	17.1.2014	A1, A3, A7, A8
A/NE-KLH/467	Proposed House (New Territories Exempted House – Small House)	23.5.2014	A1, A3, A4, A8, A13
A/NE-KLH/482	Proposed House (New Territories Exempted House – Small House)	26.9.2014	A1, A3, A7, A8
A/NE-KLH/487	Proposed House (New Territories Exempted House – Small House)	27.3.2015	A1, A3, A7, A8
A/NE-KLH/488	Proposed House (New Territories Exempted House – Small House)	27.3.2015	A1, A3, A7, A8
A/NE-KLH/491	Proposed House (New Territories Exempted House – Small House)	22.5.2015	A1, A3, A7, A8

Approval Conditions

- A1. The submission/provision of drainage facilities
- A2. The provision of fire services installations
- A3. The submission and implementation of landscape proposal
- A4. The provision septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board

- A5. The disposal of spoils during the site formation and construction period
- A6. The connection/provision of septic tank and soakaway pit for foul effluent disposal and the sewerage connection at a distance of not less than 30m from any watercourses
- A7. The connection of the foul water drainage system to the public sewers
- A8. The provision of protective measures to ensure no pollution or siltation occurs to WGG
- A9. The provision of fire fighting access, water supplies and fire service installations
- A10. The submission and implementation of landscape and tree preservation proposal
- A11. The submission and implementation of a tree preservation and replanting proposal
- A12. The provision of adequate space for the existing footpath to pass over the application site for public access purpose
- A13. The connection of the foul water drainage system to the planned public sewerage system in the area and the whole of the foul water drainage system to the planned public sewerage system upon its completion

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/299	Proposed New Territories Exempted House (NTEH) (Small House)	14.2.2003 on review	R1, R2
A/NE-KLH/300	Proposed New Territories Exempted House (NTEH) (Small House)	11.10.2002	R1
A/NE-KLH/303	Proposed New Territories Exempted House (NTEH) (Small House)	7.2.2003	R1
A/NE-KLH/312	Proposed New Territories Exempted House (NTEH) (Small House)	30.5.2003	R1
A/NE-KLH/321	Proposed New Territories Exempted House (NTEH) (Small House)	16.1.2004 on review	R1

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/360	Proposed House (New Territories Exempted House (NTEH) - Small House)	23.3.2007	R1, R3, R4
A/NE-KLH/362	Proposed House (New Territories Exempted House (NTEH) - Small House)	22.6.2007	R1
A/NE-KLH/374	Proposed House (New Territories Exempted House - Small House)	16.1.2009 on review	R3, R5
A/NE-KLH/380	Proposed House (New Territories Exempted House - Small House)	13.3.2009	R1, R3, R6
A/NE-KLH/430	Proposed House (New Territories Exempted House (NTEH) - Small House)	8.7.2011	R1, R9
A/NE-KLH/439	Proposed House (New Territories Exempted House - Small House)	24.8.2012	R7
A/NE-KLH/443	Proposed New Territories Exempted House (NTEH) (Small House)	19.10.2012	R1, R9
A/NE-KLH/444	Proposed House (New Territories Exempted House – Small House)	22.2.2013 on review	R7
A/NE-KLH/455	Proposed House (New Territories Exempted House – Small House)	13.12.2013	R7
A/NE-KLH/478	Proposed House (New Territories Exempted House – Small House)	8.8.2014	R1, R7
A/NE-KLH/479	Proposed House (New Territories Exempted House – Small House)	8.8.2014	R1, R7

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/483	Proposed House (New Territories Exempted House – Small House)	1.9.2016 (Appeal dismissed)*	R1, R7
A/NE-KLH/484	Proposed House (New Territories Exempted House – Small House)	31.10.2014	R7
A/NE-KLH/526	Proposed 6 Houses (New Territories Exempted Houses – Small Houses)	18.8.2017 on review	R1, R7, R8
A/NE-KLH/544	Proposed House (New Territories Exempted House - Small House)	12.10.2018 on review	R1, R3, R7, R8, R10
A/NE-KLH/548	Proposed House (New Territories Exempted House - Small House)	1.6.2018	R3, R8, R11

* Appeal dismissed by the Town Planning Appeal Board on 1.9.2016

Rejection Reasons

- R1. The proposed development did not comply with the Interim Criteria in that it was not able to be connected to existing or planned sewerage system in the area. There was insufficient information in the submission to demonstrate that the proposed development, which was located within WGG, would not cause adverse impact on water quality in the area.
- R2. There was no information in the submission to demonstrate that land for NTEH/Small House development was not available within the “V” zones of the applicants own village and other recognized villages in Tai Po.
- R3. The application was not in line with the planning intention of the “AGR” zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justifications had been provided in the submission for a departure from the planning intention.
- R4. The proposed development which required felling of mature trees, was not supported from nature conservation and landscape planning point of view.
- R5. The proposed development, which affected the mature trees and an ecologically important stream, was not supported from nature conservation point of view.

- R6. The proposed development did not comply with the Interim Criteria in that the proposed house with more than 50% of the footprint outside both the village environs and the “V” zone of recognised villages.
- R7. The proposed development did not comply with the Interim Criteria in that the proposed Small House located within the WGG would not be able to be connected to the existing/planned sewerage system in the area as there was no fixed programme for implementation of such system at this juncture.
- R8. Land was still available within the “V” zone of Yuen Leng, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai which is primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- R9. The proposed development did not comply with the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell outside both the “V” zone and the village ‘environs’ of Yuen Leng, Kau Lung Hang Lo Wai and Kau Lung Hang San Wai, and it was uncertain whether the proposed Small House located within the WGG could be connected to the planned sewerage system in the area.
- R10. The proposed development would be subject to adverse noise impact generated by the East Rail nearby, and there is no information in the submission to demonstrate that the proposed development will be in compliance with the Noise Control Ordinance (Cap. 400).
- R11. The proposed development did not comply with the Interim Criteria in that the proposed Small House located within WGG would not be able to be connected to the existing/planned sewerage system in the area as there was no fixed programme for implementation of such system at this juncture, and would not cause adverse landscape impact on the surrounding areas.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the applicant is an indigenous villager of Tai Wo Village of Tai Po as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained;
- (c) the subject lot is held under Block Government Lease demised for agricultural use. Small House application submitted by the applicant for the application site (the Site) is still under processing;
- (d) the Site is not covered by any Modification of Tenancy or Building Licence;
- (e) the Site falls entirely within the village 'environs' ('VE') of Tai Wo Village;
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand *</u>
Tai Wo	43	133
Yuen Leng	83	261 [#]
Kau Lung Hang	50	100

(* The figure of 10-year Small House demand is provided by the IIR of concerned villages and the information so obtained is not verified by LandsD.

The figure of 10-year Small House demand of Yuen Leng is provided by the IIR on 11.5.2019);

- (g) if and after planning permission has been given by the Town Planning Board (the Board), LandsD will process the Small House application. However, there is no guarantee at this stage that the Small House application would be approved. If the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the proposed Small House or approval of the emergency vehicular access thereto; and
- (h) the sewerage proposal is required to be approved by and to the satisfaction of Drainage Services Department (DSD). If any private lots will be affected, the applicant is required to secure the consent in the form of a Deed from the relevant land owners for connection of sewerage pipes to public sewers if necessary.

2. **Traffic**

Comments of the Commissioner for Transport (C for T):

- (a) in general, he has reservation on the application. Such type of development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside “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; and
- (b) notwithstanding the above, he considers that the application only involving development of a Small House can be tolerated on traffic grounds.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) the proposed Small House is located some 110m and 140m from East Rail Line (EAL) and Fanling Highway respectively. It is partially shielded from the EAL and the highway by other Small Houses. Trackside noise barriers have been erected along the EAL and roadside noise barriers at concerned section of the highway are being constructed under the Widening Project of Tolo Highway/Fanling Highway between Island House Interchange and Fanling to protect those village developments closer to the road. As such, no insurmountable railway and traffic noise impact is anticipated;
- (b) the Site falls within “AGR” zone and is within water gathering grounds (WGG). The planned public sewer to serve the Site is part of the Yuen Leng village sewerage scheme, which was degazetted in October 2010 due to conflicting views among some of the land owners over the extent of proposed land resumption. Currently there is no fixed timetable for implementing the said sewerage scheme. Instead, the applicant proposed to connect the proposed Small House to a public sewer at a considerable distance of about 150m to the west of the Site, which also comprise 4 intermediate private manholes. As the public sewer has sufficient capacity to accommodate the discharge from the proposed Small House, and there is sufficient level drop in between, he has no adverse comment on the applicant’s proposed connection to the public sewer. The applicant should obtain consent from the adjacent lot owner(s) and LandsD for construction and maintenance of the proposed intermediate private manholes and sewer pipes;
- (c) he has no objection to the application on the conditions that:
 - (i) the proposed house will be connected to the public sewer;
 - (ii) written consent(s) can be obtained from the adjacent lot owner(s) for the construction and maintenance of the sewage pipes and intermediate private manholes across adjacent lot(s);
 - (iii) adequate land space within the Site will be reserved for connection of

the proposed house to the public sewer; and

- (iv) the cost of construction of private sewerage, intermediate private manholes and sewer connection will be borne by the applicant;
- (d) although no insurmountable technical difficulties are envisaged for the sewer connection, the following advisory clause is applicable:
 - the applicant is advised to pay attention to avoiding potential conflict with other underground utilities when making the sewer connection. The actual alignment and number of intermediate private manholes will depend on site conditions and the applicant is required to submit plans showing the actual connection works to DSD in association with its future technical audit under the prevailing mechanism. The applicant could check DSD and Development Bureau's Practitioners Guidelines on "Arrangement for Private Developers to employ their own Contractors to carry out Drainage Connections" regarding the procedures to be followed and the maintenance responsibility of the connection works.

4. Landscape

Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) :

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising scattered tree groups, village houses and abandoned farmland. Although the proposed development is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (c) the Site is vacant and hard paved. No trees are found within the Site. Adverse impact on landscape resources due to the proposed development is not anticipated. A number of similar applications adjacent to the Site had been approved; and
- (d) since the footprint of the proposed house covers most of the Site, there is inadequate space for meaningful landscape to benefit public realm. Should the application be approved by the Board, it is considered unnecessary to impose any condition for submission and implementation of landscape proposal.

5. Drainage and Sewerage

5.1 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, a condition should be included to request

the applicant to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or of the Board to ensure that it will not cause adverse drainage impact to the adjacent area;

- (c) there is no public drain maintained by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. The proposed development, located on unpaved ground and on slope, will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems; and
- (d) the applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. He should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m should be maintained between the proposed development and the top of the embankment of existing streamcourses/ ponds/rivers.

5.2 Comments of the Chief Engineer/Consultants Management, Drainage Services Department (CE/CM, DSD):

- the public sewerage works in the area of Tai Wo had been completed under PWP Item No. 4375DS Sewerage in Ping Kong, Fu Tei Pai and Tai Wo. He has no comment on the application subject to the following:
 - (i) the existing public sewerage works would have adequate capacity to meet the demand arising from the proposed development; and
 - (ii) the applicant shall complete the necessary sewerage works to connect the discharge from the proposed development to the public sewerage at his own cost.

6. Agriculture

Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- the Site is surrounded by domestic structures. As the potential for agricultural rehabilitation is considered low, he has no strong view on the application.

7. **Fire Safety**

Comments of the Director of Fire Services (D of FS):

- (a) no comment on the application; and
- (b) the applicant is advised to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

8. **Water Supply**

Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application;
- (b) the Site is located within upper indirect WGG and is more than 30m away from the nearest water course. As the proposed Small House footprint is 100% within the 'VE' of Tai Wo Village, compliance of the application with Item B(a) of the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (the Interim Criteria) can be reasonably established;
- (c) it is noted that DEP has no adverse comment on the applicant's proposed connection to the public sewer at a considerable distance of about 150m to the west of the Site. Thus, compliance of the application with Item B(i) of the Interim Criteria can be reasonably established;
- (d) DEP states that the applicant shall connect the house to the public sewer. He supports DEP's views by imposing the following conditions:
 - (i) the foul water drainage system of the proposed Small House can be connected to the public sewerage system in the area and the applicant shall connect the whole of the foul water drainage system to the public sewerage system;
 - (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the WGG; and
 - (iii) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed Small House to the sewerage system via relevant private lot; and
- (e) for provision of water supply to the proposed development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be

responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

9. Demand and Supply of Small House Sites

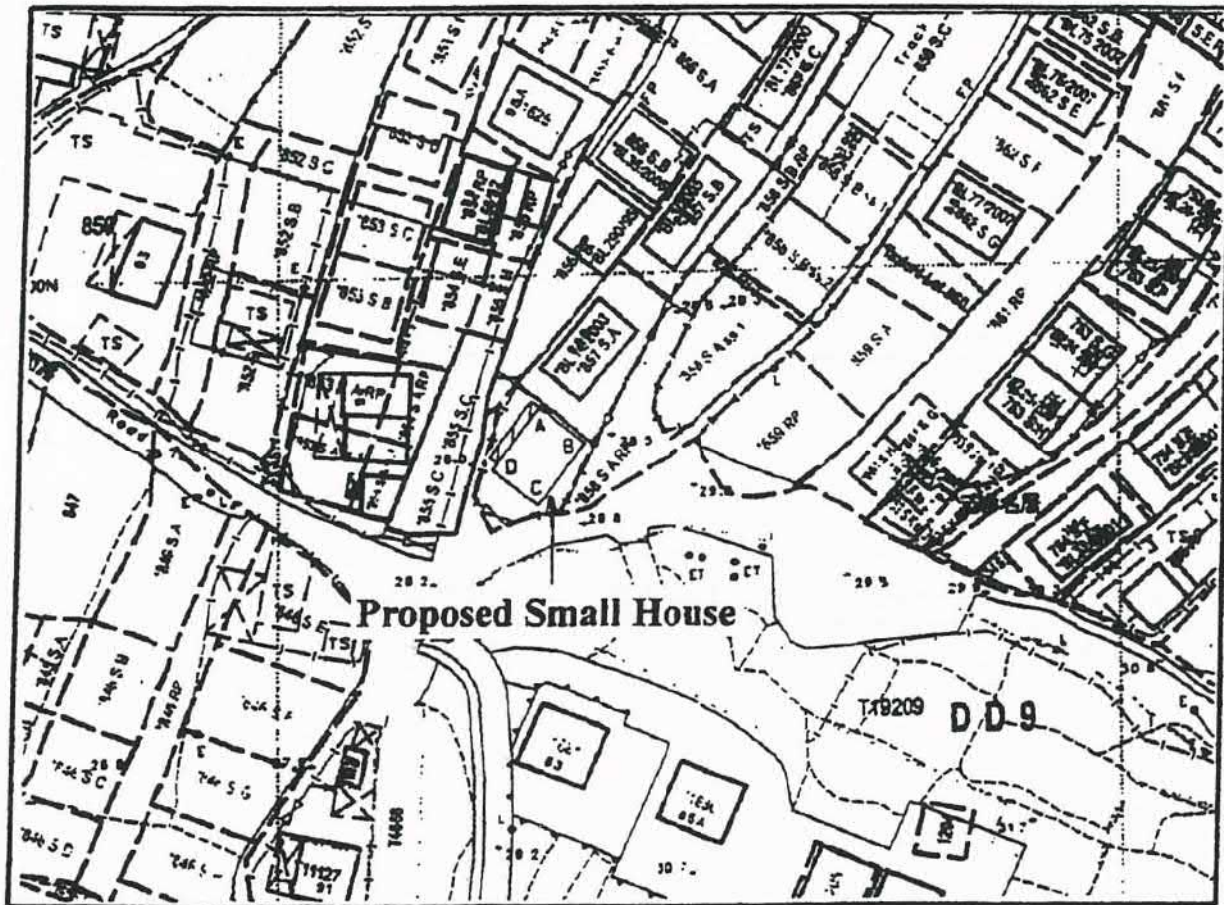
According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Yuen Leng, Kau Lung Hang and Tai Wo Villages is 176 while the 10-year Small House demand forecast for the same villages is 494. Based on the latest estimate by the Planning Department, about 9.25 ha of land (or equivalent to about 369 Small House sites) are available within the "V" zone of Yuen Leng, Kau Lung Hang and Tai Wo Villages. Therefore, the land available cannot fully meet the future Small House demand of about 16.75 ha (or equivalent to about 670 Small House sites).

Recommended Advisory Clauses

- (a) the construction of the Small House should not commence before connection to the public sewer;
- (b) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) if the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the proposed Small House or approval of the emergency vehicular access thereto; and
 - (ii) the sewerage proposal is required to be approved by and to the satisfaction of Drainage Services Department (DSD). If any private lots will be affected, the applicant is required to secure the consent in the form of a Deed from the relevant land owners for connection of sewerage pipes to public sewers if necessary;
- (c) to note the comments of the Director of Environmental Protection (DEP) that the applicant is advised to pay attention to avoiding potential conflict with other underground utilities when making the sewer connection. The actual alignment and number of intermediate private manholes will depend on site conditions and the applicant is required to submit plans showing the actual connection works to DSD in association with its future technical audit under the prevailing mechanism. The applicant could check DSD and Development Bureau's Practitioners Guidelines on "Arrangement for Private Developers to employ their own Contractors to carry out Drainage Connections" regarding the procedures to be followed and the maintenance responsibility of the connection works;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
 - (i) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed Small House to the sewerage system via relevant private lot; and
 - (ii) for provision of water supply to the proposed development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;

- (e) to note the comments of the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) that:
- (i) there is no public drain maintained by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the site and overland flow from surrounding of the Site. The proposed development, located on unpaved ground and on slope, will increase the impervious area resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems; and
 - (ii) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. He should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m should be maintained between the proposed development and the top of the embankment of existing streamcourses/ ponds/rivers;
- (f) to note the Comments of the Chief Engineer/Consultants Management, Drainage Services Department (CE/CM, DSD) that the applicant shall complete the necessary sewerage works to connect the discharge from the proposed development to the public sewerage at his own cost;
- (g) to note the comments of the Director of Fire Services (D of FS) that the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated during land grant stage; and
- (h) to note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.

PROPOSED SMALL HOUSE
LOT NO. 857 RP IN D.D.9



SCALE

Height of 3-storey small house : 8.230m

Proposed balcony (dimension: 1.219 X 8.300)

Proposed location of septic tank

Area of proposed small house : 65.03 sq.m. (about)

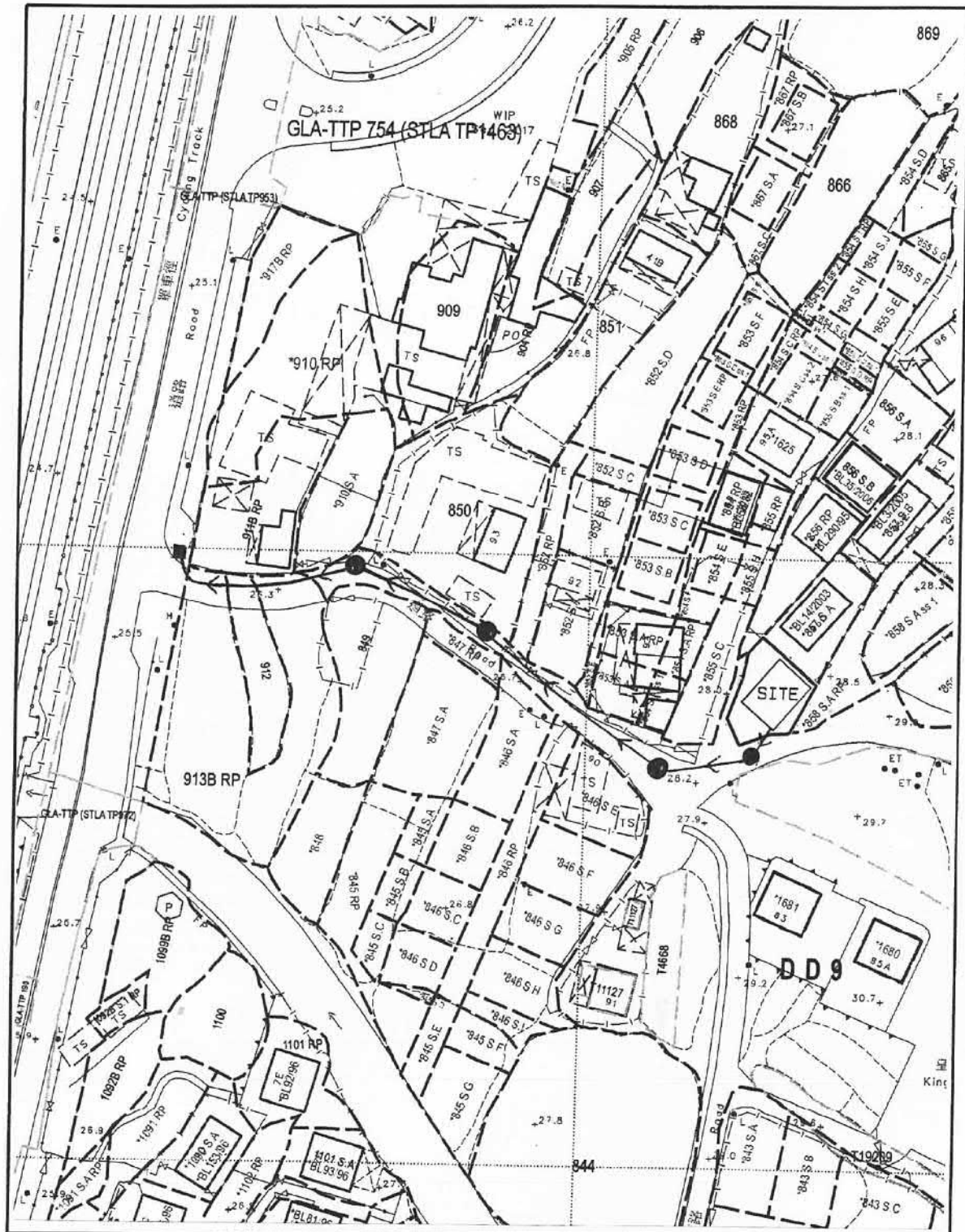
Side	Bearing	Distance	Northing	Easting	Point
A-B	129°48'20"	7.000	837083.884	834031.149	A
B-C	219°48'20"	9.290	837079.403	834036.527	B
C-D	309°48'20"	7.000	837072.266	834030.579	C
D-A	39°48'20"	9.290	837076.747	834025.202	D

參考編號
REFERENCE No. A/NE-KLH/570

繪圖 DRAWING A-1

(來源 : 申請人建議書)
(SOURCE : APPLICANT'S SUBMISSION PLAN)

PROPOSED SEWER PLAN



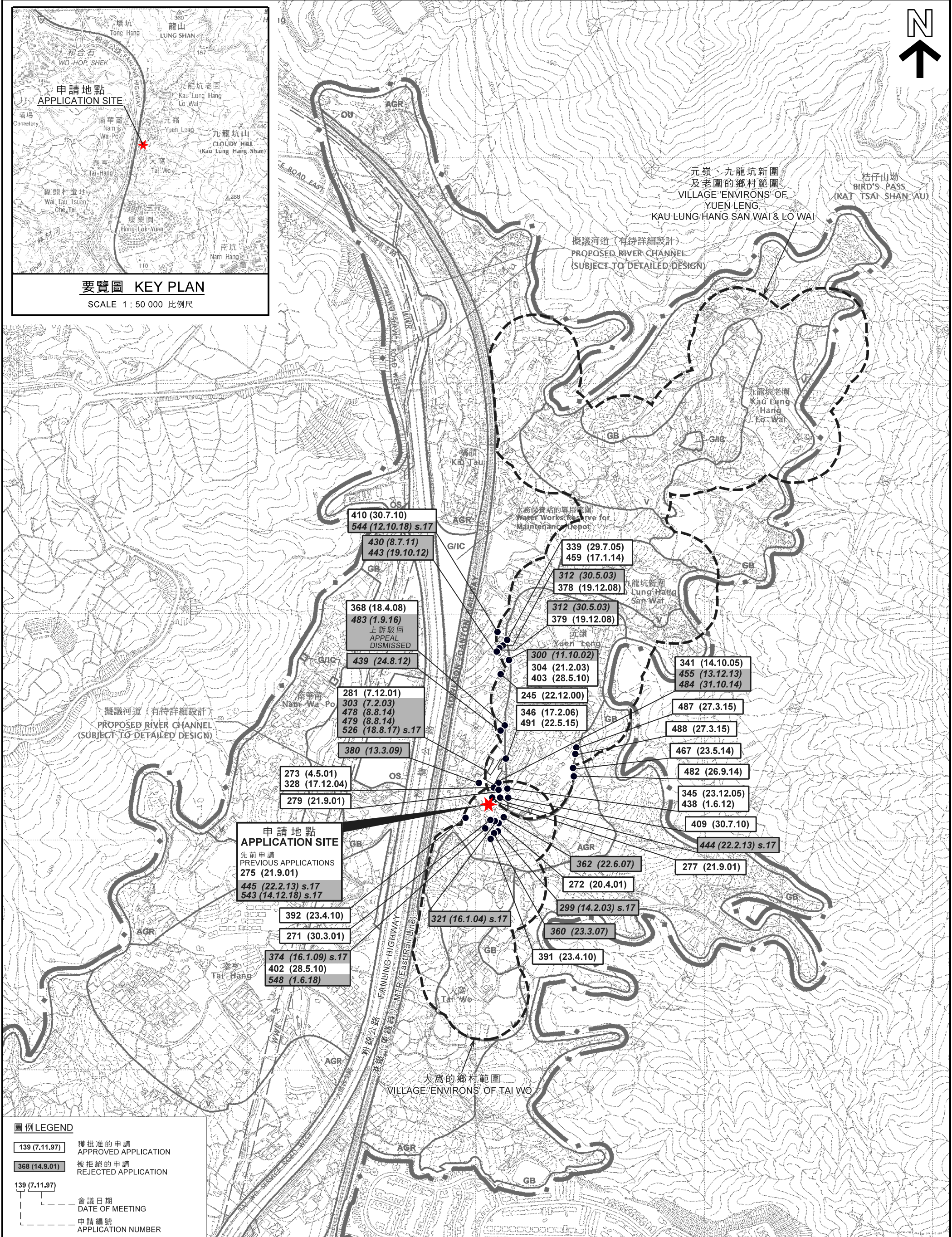
Sc lae

- Proposed Foul Man-hole
- Existing Foul Man-hole
- ← Proposed Sewage Pipe

參考編號
REFERENCE No. A/NE-KLH/570

繪圖 DRAWING A-2

(來源：申請人建議書)
(SOURCE: APPLICANT'S SUBMISSION PLAN)



本摘要圖於2019年7月16日擬備，
所根據的資料為於2006年10月17日核准的
分區計劃大綱圖編號S/NE-KLH/11
EXTRACT PLAN PREPARED ON 16.7.2019
BASED ON OUTLINE ZONING PLAN
No. S/NE-LT/11 APPROVED ON 31.10.2006

米 100 0 100 200 300 400 500 600 700 米
METRES SCALE 1 : 7 500 比例尺

規劃署
PLANNING
DEPARTMENT

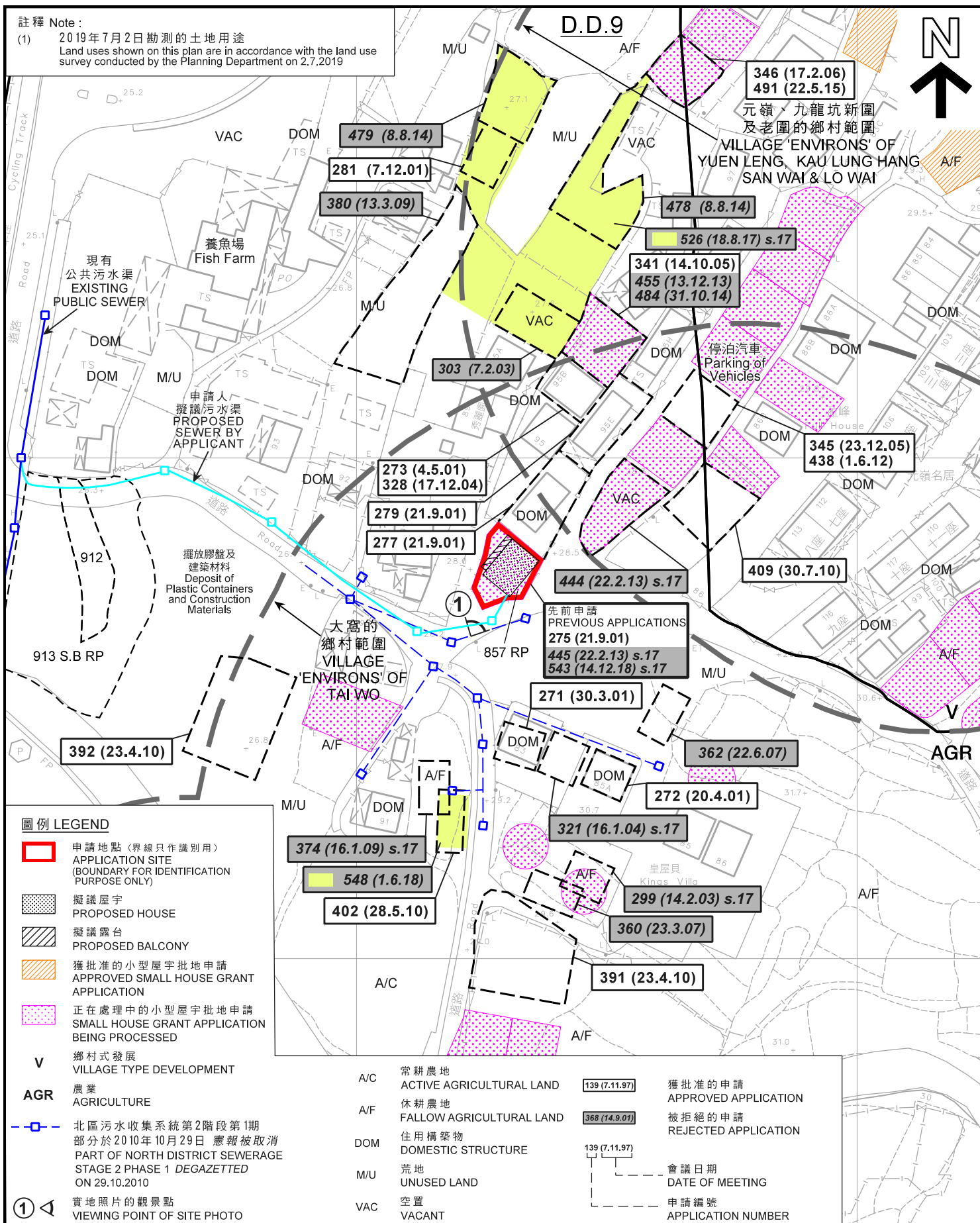


參考編號
REFERENCE No.
A/NE-KLH/570

圖 PLAN
A-1

註釋 Note:

- (1) 2019年7月2日勘測的土地用途
Land uses shown on this plan are in accordance with the land use survey conducted by the Planning Department on 27.7.2019



平面圖 SITE PLAN

擬議屋宇 (新界豁免管制屋宇—小型屋宇)
新界大埔九龍坑大窩村丈量約份第9約地段第857號餘段
PROPOSED HOUSE
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 857 RP IN D.D. 9, TAI WO VILLAGE,
KAU LUNG HANG, TAI PO, NEW TERRITORIES

SCALE 1:1,000 比例尺

米 20 0 20 40 米
METRES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.

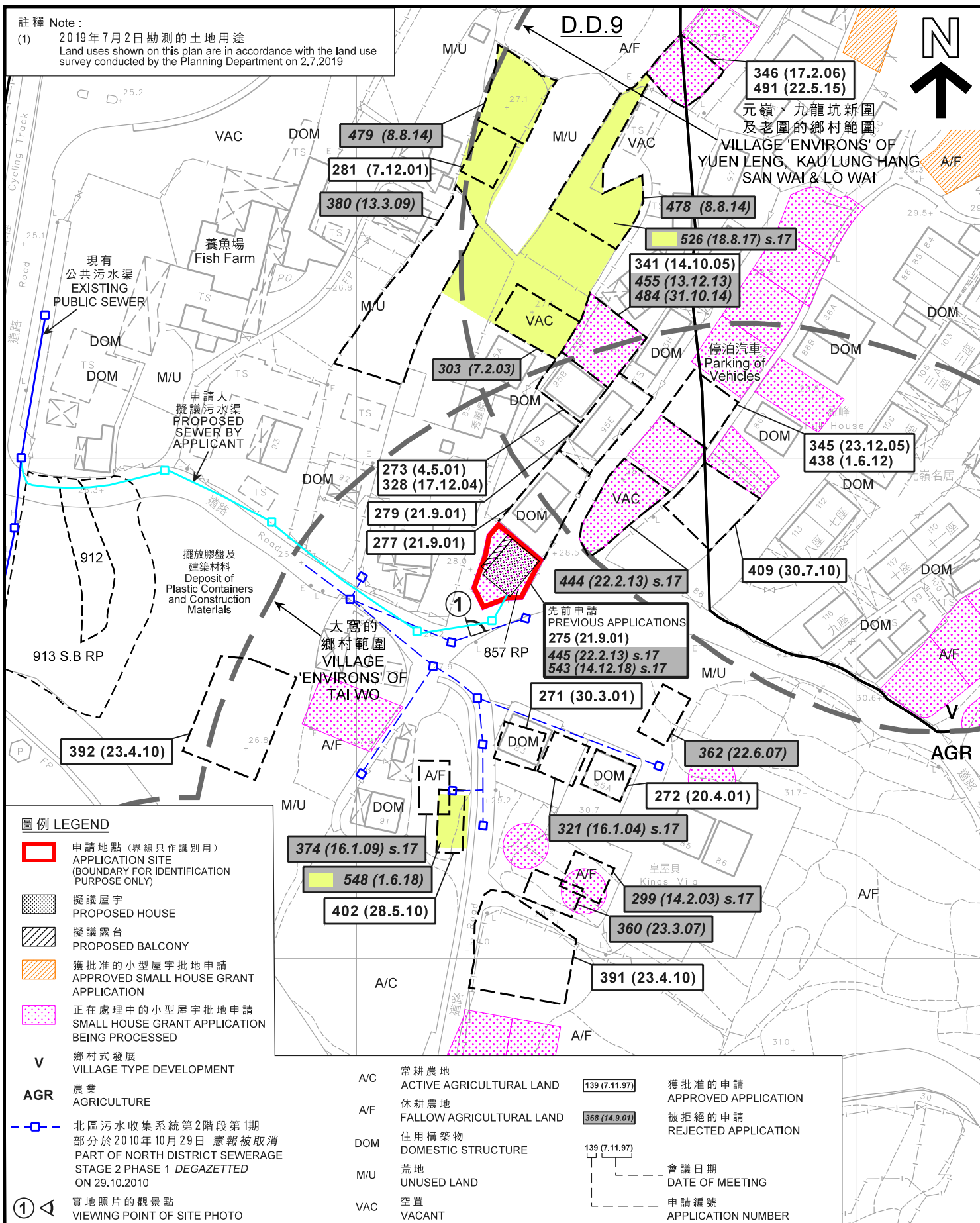
A/NE-KLH/570

圖 PLAN
A-2a

本摘要圖於2019年8月12日擬備，
所根據的資料為測量圖編號3-SW-23B
EXTRACT PLAN PREPARED ON 12.8.2019
BASED ON SURVEY SHEET No. 3-SW-23B

註釋 Note:

- (1) 2019年7月2日勘測的土地用途
Land uses shown on this plan are in accordance with the land use survey conducted by the Planning Department on 27.7.2019



平面圖 SITE PLAN

擬議屋宇 (新界豁免管制屋宇 - 小型屋宇)
新界大埔九龍坑大窩村丈量約份第9約地段第857號餘段
PROPOSED HOUSE
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 857 RP IN D.D. 9, TAI WO VILLAGE,
KAU LUNG HANG, TAI PO, NEW TERRITORIES

SCALE 1:1 000 比例尺

米 20 0 20 40 米
METRES

規劃署
PLANNING
DEPARTMENT

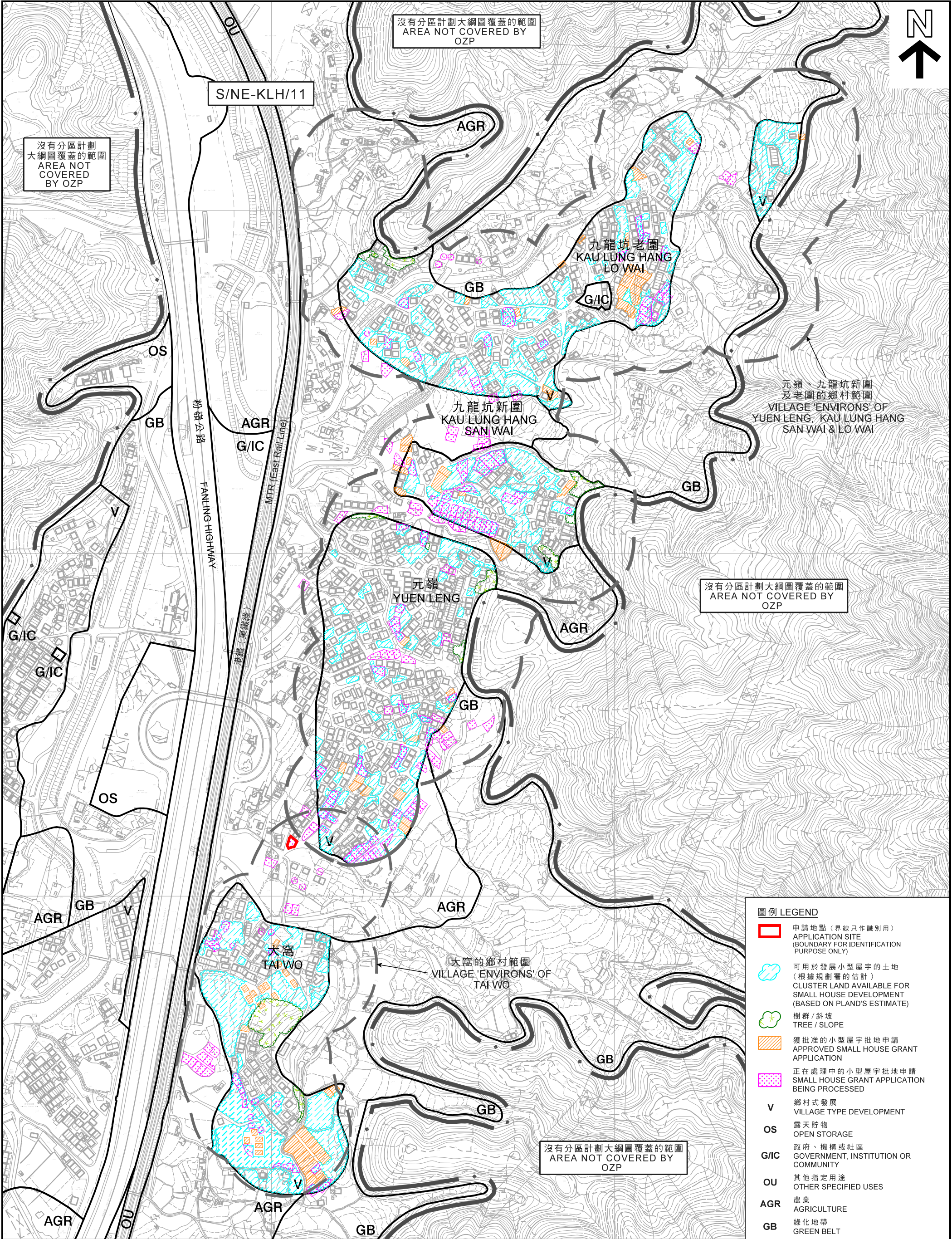


參考編號
REFERENCE No.

A/NE-KLH/570

圖 PLAN
A-2a

本摘要圖於2019年8月12日擬備，
所根據的資料為測量圖編號3-SW-23B
EXTRACT PLAN PREPARED ON 12.8.2019
BASED ON SURVEY SHEET No. 3-SW-23B



圖例 LEGEND

- 申請地點 (界線只作識別用)
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION
PURPOSE ONLY)
- 可用於發展小型屋宇的土地
(根據規劃署的估計)
CLUSTER LAND AVAILABLE FOR
SMALL HOUSE DEVELOPMENT
(BASED ON PLAND'S ESTIMATE)
- 樹群 / 斜坡
TREE / SLOPE
- 獲批准的小型屋宇批地申請
APPROVED SMALL HOUSE GRANT
APPLICATION
- 正在處理中的小型屋宇批地申請
SMALL HOUSE GRANT APPLICATION
BEING PROCESSED
- V
鄉村式發展
VILLAGE TYPE DEVELOPMENT
- OS
露天貯物
OPEN STORAGE
- G/IC
政府、機構或社區
GOVERNMENT, INSTITUTION OR
COMMUNITY
- OU
其他指定用途
OTHER SPECIFIED USES
- AGR
農業
AGRICULTURE
- GB
綠化地帶
GREEN BELT

本摘要圖於2019年8月12日擬備，
所根據的資料為測量圖編號
3-SW-18A、B、C、D、19A、C、
23A、B、C、D及24A、C
EXTRACT PLAN PREPARED ON 12.8.2019
BASED ON SURVEY SHEETS No.
3-SW-18A,B,C,D,19A,C,
23A,B,C,D & 24A,C

在「鄉村式發展」地帶內預計可供發展小型屋宇的土地數量
ESTIMATED AMOUNT OF LAND AVAILABLE FOR
SMALL HOUSE DEVELOPMENT WITHIN THE "V" ZONE

擬議屋宇 (新界豁免管制屋宇 - 小型屋宇)
PROPOSED HOUSE (NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 857 RP IN D.D. 9, TAI WO VILLAGE,
KAU LUNG HANG, TAI PO, NEW TERRITORIES

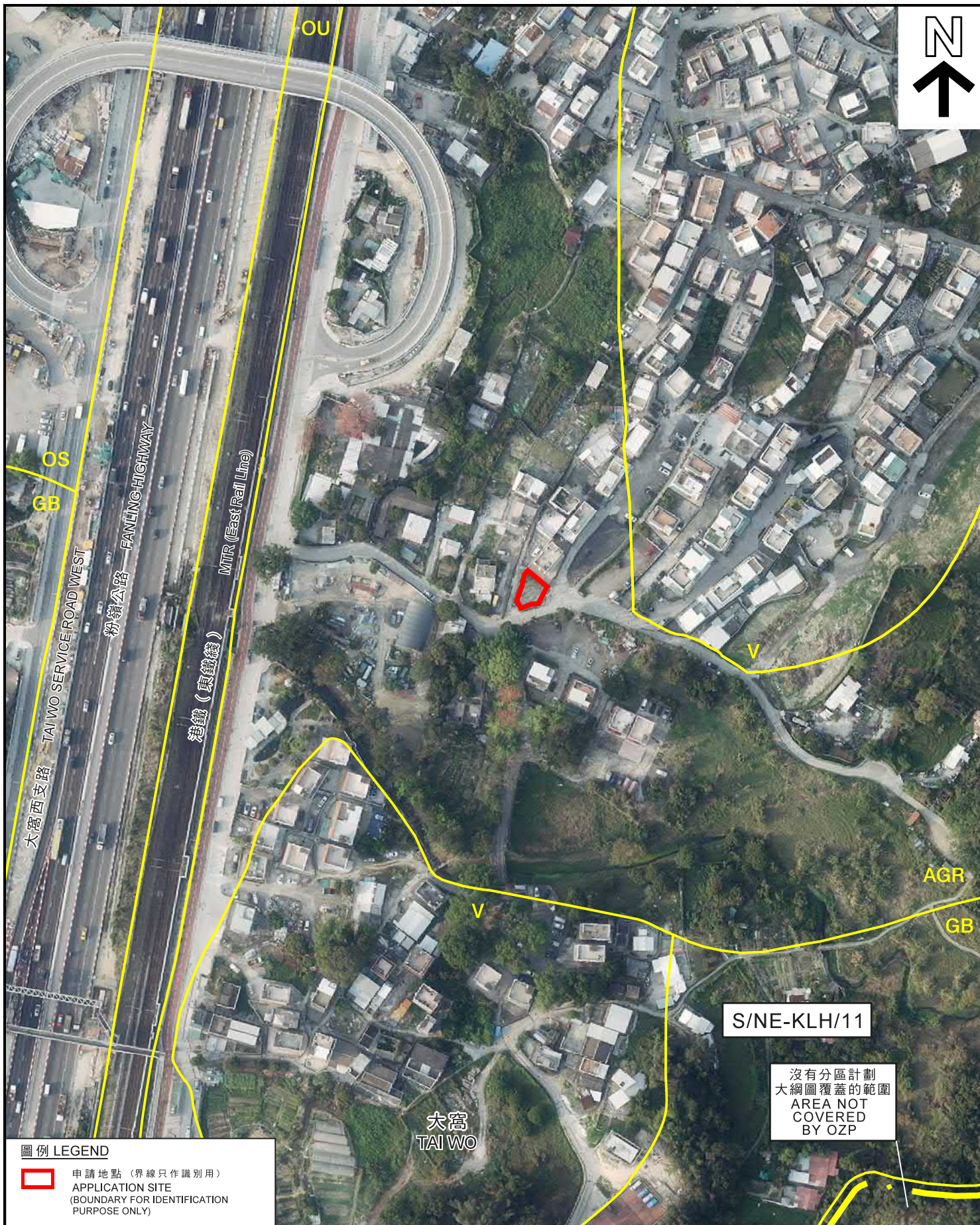
SCALE 1:5 000 比例尺
METRES 100 0 100 200 300 300 METRES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-KLH/570

圖 PLAN
A-2b



圖例 LEGEND



申請地點 (界線只作識別用)
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION
PURPOSE ONLY)

本摘要圖於2019年7月16日擬備，
所根據的資料為地政總署
於2018年3月12日拍得的航攝照片
編號E034646C
EXTRACT PLAN PREPARED ON 16.7.2019
BASED ON AERIAL PHOTO No. E034646C
TAKEN ON 12.3.2018 BY
LANDS DEPARTMENT

航攝照片 AERIAL PHOTO

擬議屋宇 (新界豁免管制屋宇 - 小型屋宇)
新界大埔九龍坑大窩村丈量約份第9約地段第857號餘段
PROPOSED HOUSE
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 857 RP IN D.D. 9, TAI WO VILLAGE,
KAU LUNG HANG, TAI PO, NEW TERRITORIES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-KLH/570

圖 PLAN
A-3

申請地點
APPLICATION SITE

1



實地照片 SITE PHOTO

本圖於2019年7月25日擬備，所根據的資料為攝於2019年7月2日的實地照片
PLAN PREPARED ON 25.7.2019 BASED ON SITE PHOTO TAKEN ON 2.7.2019

擬議屋宇(新界豁免管制屋宇—小型屋宇)
新界大埔九龍坑大窩村丈量約份第9約地段第857號餘段
PROPOSED HOUSE
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 857 RP IN D.D. 9, TAI WO VILLAGE,
KAU LUNG HANG, TAI PO, NEW TERRITORIES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-KLH/570

圖 PLAN
A-4

**Extract of the Minutes of the
Rural and New Town Planning Committee Meeting held on 16.8.2019**

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KLH/570 Proposed House (New Territories Exempted House – Small House) in
“Agriculture” Zone, Lot 857 RP in D.D. 9, Tai Wo Village, Kau Lung
Hang, Tai Po
(RNTPC Paper No. A/NE-KLH/570)

Presentation and Question Sessions

36. Ms Kathy C.L. Chan, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) proposed house (New Territories Exempted House (NTEH) – Small House);
- (c) departmental comments – departmental comments were set out in paragraph 10 of the Paper. Concerned government departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, one public comment from MTR Corporation Limited was received on the application. Major views were set out in paragraph 11 of the Paper; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper. The proposed Small House development was not in line with the planning intention of the “Agriculture” zone. Although concerned government departments had no objection to or no adverse comments on the application, the application did not comply with the Interim Criteria for consideration of application for NTHE/Small House in New Territories. There was no

general shortage of land in meeting Small House development in the “Village Type Development” (“V”) zone of the concerned villages, and it was considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern. The site was the subject of three previous applications with the last application (No. A/NE-KLH/543), which was submitted by the same applicant of the current application, rejected by the Town Planning Board (the Board) on review on 14.12.2018 mainly because land was still available within the “V” zone. Compared with the last previous application, there was no change to the footprint and major development parameters of the proposed Small House under the current application. Regarding the public comment received, the comments of government departments and planning assessments above were relevant.

37. In response to a Member’s concern on repeated planning applications from the same applicant, the Secretary explained that the Town Planning Ordinance did not restrict the same applicant from re-submitting planning applications to the Board and such application would still be processed for consideration by the Board. Nevertheless, streamlined procedures such as fast-tracking departmental circulation and preparing a simple paper had been adopted in dealing with repeatedly applications made by the same applicant.

Deliberation Session

38. After deliberation, the Committee decided to reject the application. The reasons were :

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” zone, which 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. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the “Village Type Development” (“V”) zone of

Yuen Leng, Kau Lung Hang and Tai Wo 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 infrastructure and services.”

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/NE-KLH/570

By Post

6 September 2019

Rocky Fung Surveying Co.

(Attn.: Fung Ho Kee)

Dear Sir/Madam,

**Proposed House (New Territories Exempted House – Small House)
in “Agriculture” Zone, Lot 857 RP in D.D. 9, Tai Wo Village,
Kau Lung Hang, Tai Po**

I refer to my letter to you dated 28.6.2019.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the proposed development is not in line with the planning intention of the “Agriculture” zone, which 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. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the “Village Type Development” (“V”) zone of Yuen Leng, Kau Lung Hang and Tai Wo 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 infrastructure and services.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 16.8.2019, in both English and Chinese, are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before

27.9.2019). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. Kathy Chan of Sha Tin, Tai Po & North District Planning Office at 2158 6242.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

(With Chinese Translation)

25-SEP-2019 14:15 FROM TOWN PLANNING BOARD

TO DPO/STN

P.001/001

Rocky Fung Surveying Company

24 Sep 2019

Our Ref. : TPB/TP/9/857RP
Your Ref.: TPB/A/NE-KLH/570



Secretary of Town Planning Board,
15/F., North Point Govt. Offices,
333 Java Road, North Point, H.K.

Dear Sir/Madam,

Re : Application for Review of Case No. A/NE-KLH/570
Proposed Small House on Lot 857RP in D.D.9, Tai Wo Village, Tai Po

I would like to apply for a review of the decision made by TPB on 6 Sep 2019.
Please please feel free to contact the undersigned at :

Yours faithfully



Fung ho-kei
Managing Director

cc. Client

Recommended Advisory Clauses

- (a) the construction of the Small House should not commence before connection to the public sewer;
- (b) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) if the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the proposed Small House or approval of the emergency vehicular access thereto; and
 - (ii) the sewerage proposal is required to be approved by and to the satisfaction of Drainage Services Department (DSD). If any private lots will be affected, the applicant is required to secure the consent in the form of a Deed from the relevant land owners for connection of sewerage pipes to public sewers if necessary;
- (c) to note the comments of the Director of Environmental Protection (DEP) that the applicant is advised to pay attention to avoiding potential conflict with other underground utilities when making the sewer connection. The actual alignment and number of intermediate private manholes will depend on site conditions and the applicant is required to submit plans showing the actual connection works to DSD in association with its future technical audit under the prevailing mechanism. The applicant could check DSD and Development Bureau's Practitioners Guidelines on "Arrangement for Private Developers to employ their own Contractors to carry out Drainage Connections" regarding the procedures to be followed and the maintenance responsibility of the connection works;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
 - (i) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed Small House to the sewerage system via relevant private lot; and
 - (ii) for provision of water supply to the proposed development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;

- (e) to note the comments of the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) that:
- (i) there is no public drain maintained by DSD in the vicinity of the application site (the Site). The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the site and overland flow from surrounding of the Site. The proposed development, located on unpaved ground and on slope, will increase the impervious area resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems; and
 - (ii) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. He should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m should be maintained between the proposed development and the top of the embankment of existing streamcourses/ponds/rivers;
- (f) to note the Comments of the Chief Engineer/Consultants Management, Drainage Services Department (CE/CM, DSD) that the applicant shall complete the necessary sewerage works to connect the discharge from the proposed development to the public sewerage at his own cost;
- (g) to note the comments of the Director of Fire Services (D of FS) that the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated during land grant stage; and
- (h) to note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.