

RNTPC Paper No. A/NE-LK/114  
for Consideration by the  
Rural and New Town Planning  
Committee on 7.9.2018

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

**APPLICATION NO. A/NE-LK/114**

**Applicant** : Mr. CHEUNG Steven Pak Hung represented by Mr. YEUNG Siu Fung

**Site** : Lot 1356 S.B in D.D. 39, Ma Tseuk Leng San Uk Ha, Sha Tau Kok, New Territories

**Site Area** : 130.06m<sup>2</sup> (about)

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Luk Keng and Wo Hang Outline Zoning Plan (OZP) No. S/NE-LK/11

**Zoning** : “Agriculture” (“AGR”)

**Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who claims himself an indigenous villager of Ma Tseuk Leng of Sha Tau Kok Heung<sup>1</sup>, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Ma Tseuk Leng, Sha Tau Kok (Plans A-1 and A-2a). The Site falls within an area zoned “AGR” on the approved Luk Keng and Wo Hang OZP No. S/NE-LK/11. 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 the proposed NTEH (Small House) 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>

1.3 The applicant indicates that the uncovered area of the Site would be used as garden for the proposed Small House. Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**.

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant’s eligibility for Small House grant has yet to be ascertained.

- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received by the Board on 16.7.2018.

**2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Appendix V of the Application Form in **Appendix I**. They can be summarised as follows:

- (a) the applicant is an indigenous villager of Ma Tseuk Leng Ha Tsuen;
- (b) the applicant has no private land within the "Village Type Development" ("V") zone and he has to apply for building a Small House on the Site to live near his relatives whose current and/or future houses located adjacent to the Site;
- (c) planning approval was granted to the applicant's relatives for Small House developments at Lots 1356 S.A, 1368 S.A, S.B and RP in D.D. 39 (Application No. A/NE-LK/79) (**Plan A-1**) in which the locations of these Small House are further away from the "V" zone and 'Village Environs' ('VE') and closer to the Sha Tau Kok Road; and
- (d) landscaping and drainage proposals will be submitted upon the approval of the application and the applicant is willing to adopt any measures that the Board and other Government departments deem necessary.

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

The applicant is the sole "current land owner" of the lot. 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 of the Site.

**6. Similar Applications**

- 6.1 There are 39 similar applications involving 33 sites for Small House development within/partly within the "AGR" zones in the vicinity of the Site in the Luk Keng and Wo Hang area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.

- 6.2 Among these similar cases, 31 applications were approved by the Committee between February 2001 and January 2015 (i.e. before the cautious approach being adopted by the Board) (**Plan A-1**). One of them (Application No. A/NE-LK/79 for four proposed Small Houses), which located to the immediately west and south across two existing village houses, was approved by the Committee on 19.7.2013 (**Plan A-2a**). These applications were approved by the Committee mainly on the considerations that the application generally complied with the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell within the 'VE' and there was a general shortage of land within the "V" zone at the time of consideration; the proposed Small House development was not incompatible with the surrounding rural and village environment; and the proposed development was not expected to have significant adverse impacts on the surrounding area. Five other applications No. A/NE-LK/106, 107, 109, 111 and 112 (**Plan A-1**) were also approved by the Committee between December 2016 and April 2018 (i.e. after the cautious approach being adopted by the Board) mainly for reason of being the subject of previously approved applications (No. A/NE-LK/30, 73, 77 and 80).
- 6.3 The other three applications No. A/NE-LK/78, 92 and 93 were rejected by the Committee between March 2013 and October 2014 for reasons that proposed Small House was not in line with the planning intentions of "AGR" and "Green Belt" ("GB") zones; the proposed development might have adverse impact on a natural stream in the vicinity; the application did not comply with the Interim Criteria and TPB PG-No. 10 on application for development within "GB" zone in that the proposed development would involve vegetation clearance and hence affect these existing natural landscape; land was still available within the "V" zone of Ma Tseuk Leng for Small House development; and the approval of the application would set an undesirable precedent for similar applications in the area.
- 6.4 Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
7. **The Site and Its Surrounding Area** (Plans A-1, A-2a and A-2b, aerial photo on Plan A-3 and site photo on Plan A-4)
- 7.1 The Site is:
- (a) partly paved and partly grown with fruit trees (**Plan A-4**);
  - (b) located in close proximity to the village cluster of Ma Tsuek Leng San Uk Ha (**Plan A-2a**); and
  - (c) accessible by a local road leading to Sha Tau Kok Road – Wo Hang to its immediately north.
- 7.2 The surrounding area has the following characteristics:
- (a) to the north are temporary structures for storage purpose or vacant, and to the further north are unused land and fallow agricultural land;
  - (b) to the east are fallow agriculture land while to the northeast is the village cluster of Ma Tseuk Leng San Uk Ha within the "V" zone (**Plan A-2a and A-2b**);

- (c) to the immediately south and southwest are two village houses and further south are fallow agricultural land, one of the sites of an approved Small House application No. A/NE-LK/79, open storage of construction material and the Sha Tau Kok Road – Wo Hang; and
- (d) to the immediately west is a garden which is one of the sites of an approved Small House application No. A/NE-LK/79, and beyond the local road are vacant land, and fallow agricultural land with two village houses.

## 8. Planning Intention

The planning intention of the “AGR” zone in the Luk Keng and Wo Hang 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 application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?  - The Site  - Footprint of the proposed Small House	-  -	100%  100%	- The Site and the footprint of the proposed Small House falls entirely within the “AGR” zone.
2.	Within ‘VE’?  - The Site  - Footprint of the proposed Small House	100%  100%	-  -	- DLO/N, LandsD advises that the footprint of the proposed Small House falls entirely within the ‘VE’ of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Wo Tong Kong.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	- Land required to meet Small House demand in Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster <sup>2</sup> : about 14 ha (equivalent to 561 Small House sites). The outstanding Small House applications for Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha

<sup>2</sup> Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster comprises Sheung Ma Tseuk Leng Village, Ha Ma Tseuk Leng Village and Shek Kiu Tau Village.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				and Shek Kiu Tau village cluster are 66 <sup>3</sup> while the 10-year Small House demand forecast for the same villages is 495.  - Land available to meet Small House demand within the "V" zone of the villages concerned: about 2.37 ha (equivalent to 94 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of "AGR" zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view against the application from agriculture point of view as the Site is a fenced backyard and is relatively small in size, which possesses low potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The proposed Small House is not entirely incompatible with the surrounding rural setting and environment dominated by fallow/active agricultural land, tree groups, vacant/unused land, village houses and vacant temporary structures.
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)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		- Commissioner for Transport (C for T) has reservation on the application and advises that Small House development

<sup>3</sup> Among the 66 outstanding Small House applications, 15 of them fall within the "V" zone and 51 straddle or outside the "V" zone. For those 51 applications straddling or being outside the "V" zone, 9 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>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 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 application only involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.</p>
10.	Drainage impact?	✓		<p>- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required.</p>
11.	Sewage impact?		✓	<p>- Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.</p>
12.	Landscaping impact?	✓		<p>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has reservation on the application from the landscape planning point of view.</p> <p>- A group of fruit trees providing some amenity to the area are in conflict with the proposed Small House within the Site. They have to be removed for the Small House development if permission is granted. Yet, according to the layout plan (<b>Drawing A-1</b>), there is no room for compensatory tree planting within the Site.</p> <p>- If the application is approved, landscape condition is considered not practicable given there is inadequate planting space for tree planting works.</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objection conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that the Indigenous Inhabitant Representative of Ma Tseuk Leng Ha supports the application while the Chairman of Sha Tau Kok District Rural Committee and the incumbent North District Council (NDC) member of subject constituency have no comment on the application.

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

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

9.3 The following Government departments have no comment on / no objection to the application:

- (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 27.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received (**Appendix V**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Hong Kong Bird Watching Society and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; approval of the application would set an undesirable precedent to the future similar applications within the “AGR” zone; land is still available within the “V” zone of Ma Tseuk Leng for Small House development; and approval of Small House application with septic tank is undesirable.

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

11.1 The Site falls entirely within an area zoned “AGR” on the OZP. The proposed Small House development is not in line with the planning intention of the “AGR” zone which is intended 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. As the Site is a fenced backyard and is small in size, DAFC considers that the Site possesses low potential for agricultural rehabilitation and therefore has no strong view against the application from agriculture point.

- 11.2 Based on DLO/N, LandsD's records, the total number of outstanding Small House applications for Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster is 66 while the 10-year Small House demand forecast for the same village cluster is 495. According to the latest estimate by PlanD, a total of about 2.37 ha (equivalent to 94 Small House sites) of land are available within the "V" zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the footprint of the proposed Small House falls entirely within the 'VE' of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Wo Tong Kong.
- 11.3 The Site is situated in an area of rural landscape character consisted of dominated by fallow/active agricultural land, tree groups, vacant/unused land, village houses and vacant temporary structures. The proposed Small House development is not entirely incompatible with the surrounding environment (**Plans A-2a and A-3**). CTP/UD&L, PlanD has reservation on the application from landscape planning perspective as the proposed Small House would lead to vegetation clearance of a group of existing fruit trees found within the Site. Compensatory planting will not be practicable due to space limitation. As such, the application does not meet the Interim Criteria in that the applicant fails to demonstrate that the proposed development would not cause adverse landscape impacts on the surrounding area. C for T has reservation on the application and considers that Small House development should be confined within the "V" zone as far as possible but given that the proposed development involves one Small House only, 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 application.
- 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 Tseuk Leng, Ma Tseuk Leng San Uk Ha and Wo Tong Kong (**Plan A-2a**). Whilst land available within the "V" zone is insufficient to fully meet the total Small House demand (in total about 14 ha or equivalent to 561 Small House sites), it is noted that land (about 2.37 ha or equivalent to 94 Small House sites) is still available within the "V" zone to meet the outstanding 66 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- 11.5 There are 18 similar applications for Small House development in the vicinity of the Site as shown on **Plan A-2a**. Fifteen of them (including Application No. A/NE-LK/79 for four proposed Small Houses located to the west and south of the Site) were approved by the Committee between 2001 and 2014 (i.e. before the cautious approach being adopted by the Board) mainly on the considerations that the application generally complied with the Interim Criteria in that more than 50% of the footprint of



the proposed Small House fell within the 'VE' and there was a general shortage of land within the "V" zone at the time of consideration; the proposed Small House development was not incompatible with the surrounding rural and village environment; and the proposed development was not expected to have significant adverse impacts on the surrounding area. After the adoption of cautious approach, only one similar application (No. A/NE-LK/109) was approved in 2017 mainly for the reason of being ~~the~~ subject of a previously approved application (No. A/NE-LK/30). The other two similar applications (No. A/NE-LK/92 and 93) straddling "AGR" and "GR" zones were rejected by the Committee in 2014 mainly on the grounds that the proposed Small House was not in line with the planning intentions; the application did not comply with the Interim Criteria and TPB PG-No. 10 on application for development within "GB" zone in that the proposed development would involve vegetation clearance and hence affect these existing natural landscape; land was still available within the "V" zone of Ma Tseuk Leng for Small House development; and the approval of the application would set an undesirable precedent for similar applications in the area. The circumstances of the current application are different from those approved and rejected applications.

- 11.6 Regarding the public comments objecting to application mainly on the grounds that the proposed development is not in line with the planning intention of the "AGR" zone; approval of the application would set an undesirable precedent to the future similar applications within the "AGR" zone; land is still available within the "V" zone of Ma Tseuk Leng for Small House development; and approval of Small House application with septic tank is undesirable, 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 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 in the Luk Keng and Wo Hang area which is primarily to retain and safeguard good quality agricultural land / farm / fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would involve vegetation clearance and hence affect the existing natural landscape; and
- (c) land is still available within the "V" zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 7.9.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

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

Advisory Clauses

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

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to approve the application, 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 application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 16.7.2018
<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 within/partly within the "AGR" Zones in the vicinity of the Site on the Luk Keng and Wo Hang OZP
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<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 Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**Relevant 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) if 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.

**Similar S.16 Applications for Proposed House (New Territories Exempted House - Small House)  
within/partly within the "Agriculture" zone in the vicinity of the application site  
in the Luk Keng and Wo Hang Area**

**Approved Applications**

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-LK/26	Proposed New Territories Exempted House (NTEH) (Small House)	16.2.2001	A1, A2, A3 & A9
A/NE-LK/28	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1, A2 & A3
A/NE-LK/29	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1, A2 & A3
A/NE-LK/30 <sup>1</sup>	Proposed New Territories Exempted House (NTEH) (Small House)	12.7.2002	A1, A2 & A3
A/NE-LK/34	New Territories Exempted House (NTEH) (Small House)	7.3.2003	A1, A2, A3 & A9
A/NE-LK/43	Proposed New Territories Exempted House (NTEH) (Small House)	24.9.2004	A1, A2, A3 & A9
A/NE-LK/45	House (New Territories Exempted House (NTEH) - Small House)	19.5.2006	A2, A3, A10 & A11
A/NE-LK/50	Proposed House (New Territories Exempted House (NTEH) - Small House)	9.3.2007	A2, A3, A5 & A12
A/NE-LK/52	Proposed House (New Territories Exempted House (NTEH) - Small House)	23.3.2007	A2, A3, A4 & A5
A/NE-LK/55	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	5.3.2010	A2, A3, A5 & A6
A/NE-LK/57	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6

A/NE-LK/58	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6
A/NE-LK/59	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6
A/NE-LK/64	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/65	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/66	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/67	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/73 <sup>2,3</sup>	Proposed 2 Houses (New Territories Exempted Houses - Small Houses)	15.6.2012	A2, A3, A5, A6 & A13
A/NE-LK/77 <sup>4</sup>	Proposed House (New Territories Exempted House - Small House)	1.3.2013	A2, A3 & A5
A/NE-LK/79	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	19.7.2013	A3, A5 & A7
A/NE-LK/80 <sup>5</sup>	Proposed House (New Territories Exempted House - Small House)	6.9.2013	A2, A3 & A5
A/NE-LK/83	Proposed House (New Territories Exempted House - Small House)	9.5.2014	A2, A3, A5 & A8
A/NE-LK/84	Proposed House (New Territories Exempted House - Small House)	9.5.2014	A2, A3, A5 & A8
A/NE-LK/85	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/86	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8

A/NE-LK/88	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/89	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/90	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/91	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/94	Proposed House (New Territories Exempted House - Small House)	16.1.2015	A2, A3, A5 & A8
A/NE-LK/95	Proposed House (New Territories Exempted House - Small House)	16.1.2015	A2, A3, A5 & A8
A/NE-LK/106 <sup>2</sup>	Proposed House (New Territories Exempted House - Small House)	23.12.2016	A3, A5 & A8
A/NE-LK/107 <sup>3</sup>	Proposed House (New Territories Exempted House - Small House)	23.12.2016	A3, A5 & A8
A/NE-LK/109 <sup>1</sup>	Proposed House (New Territories Exempted House - Small House)	10.11.2017	A2, A3, A5 & A8
A/NE-LK/111 <sup>4</sup>	Proposed House (New Territories Exempted House - Small House)	16.3.2018	A5 & A8
A/NE-LK/112 <sup>5</sup>	Proposed House (New Territories Exempted House - Small House)	6.4.2018	A2, A5 & A8

#### Remarks

- \*<sup>1</sup>: The application no. A/NE-LK/30 involves the same site as the application no. A/NE-LK/109
- \*<sup>2</sup>: The application no. A/NE-LK/73 involves the same site as the application no. A/NE-LK/106
- \*<sup>3</sup>: The application no. A/NE-LK/73 involves the same site as the application no. A/NE-LK/107
- \*<sup>4</sup>: The application no. A/NE-LK/77 involves the same site as the application no. A/NE-LK/111
- \*<sup>5</sup>: The rejected application no. A/NE-LK/78 and application no. A/NE-LK/80 involves the same site as the application no. A/NE-LK/112

### Approval Conditions:

- A1 The provision of drainage facilities
- A2 The submission and implementation of landscaping proposals
- A3 The commencement clause
- A4 The design and provision of firefighting access, water supplies for firefighting and fire service installations
- A5 The submission and implementation of drainage proposals
- A6 The provision of firefighting access, water supplies for firefighting and fire service installations
- A7 The submission and implementation of tree preservation and landscape proposals
- A8 The provision of septic tank
- A9 The provision of fire services installations
- A10 The provision of fire fighting access to the site
- A11 The design and provision of drainage facilities
- A12 The design and provision of fire-fighting access, water supplies and fire service installations
- A13 The setting back of the application site boundary to avoid encroaching onto the land requirement area under the 'Feasibility Study of Review of Drainage Master Plans in Yuen Long and North District'

### Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE- LK/78 <sup>1</sup>	Proposed House (New Territories Exempted House - Small House)	1.3.2013	R1 & R2
A/NE-LK/92	Proposed House (New Territories Exempted House - Small House)	17.10.2014	R1, R3 – R6



A/NE-LK/93	Proposed House (New Territories Exempted House - Small House)	17.10.2014	R1, R3 – R6
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Remarks

\*1: The application no. A/NE-LK/78 and the approved application no. A/NE-LK/80 involves the same site as the approved application no. A/NE-LK/112

**Rejection Reasons:**

- R1 The proposed development was not in line with the planning intention of the "Agriculture" zone in the Luk Keng and Wo Hang area which was 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 was no strong planning justification in the submission for a departure from the planning intention.
- R2 The proposed development was located in the immediate vicinity of a natural stream. There was insufficient information in the subject application to demonstrate that the proposed development would not cause adverse impact on the stream.
- R3 The proposed development was not in line with the planning intention of the "Green Belt" ("GB") zone in the Luk Keng and Wo Hang area which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention.
- R4 The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories and Town Planning Board Guidelines No. 10 on 'Application for Development within "GB" Zone under Section 16 of the Town Planning Ordinance' in that the proposed development would involve clearance of vegetation and would affect the existing natural landscape on the surrounding environment.
- R5 Land was still available within the "Village Type Development" zone of Ma Tseuk Leng where land was primarily intended for Small House development. It was considered more

appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services.

- R6           The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area.

**Detailed Comments from Relevant Government Departments**

**1. Land Administration**

Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site falls within the village environs of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha & Wo Tong Kong;
- (b) the applicant claimed himself to be the indigenous villager of Ma Tseuk Leng of Sha Tau Kok Heung. His eligibility for Small House grant has yet to be ascertained;
- (c) the Site is not covered by any Modification of Tenancy/Building Licence;
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follows:

Villages	No. of the outstanding Small House applications	No. of 10-year Small House demand*
Sheung Ma Tseuk Leng	60	50
Ha Ma Tseuk Leng		65
Shek Kiu Tau	6	380

\* The figures of the 10-year Small House demand forecast were provided by the relevant Indigenous Inhabitant Representatives without any supporting evidence and his office is not in a position to verify the forecasts; and

- (e) the Small House application was made to his office on 31.5.2018.

**2. Traffic**

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

- (a) she has reservation on the application. Such type of development should be confined within the "Village Type Development" ("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 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; and
- (b) notwithstanding the above, the application involves the construction of one Small House. She considers that the application can be tolerated unless being rejected on other grounds.

**3. Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale of the proposed development, the application alone is unlikely to cause major pollutions; and

- (b) the septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person.

#### 4. **Landscape**

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

- (a) she has reservation on the application from the landscape planning perspective;
- (b) with reference to the latest aerial photo of 2017, the Site is situated in an area of rural landscape character dominated by farmlands, tree groups and village houses. Base on her site record, the Site is in proximity to a few village houses and there is a Small House site with planning permission granted in 2013 adjoining its western boundary. There is a village track connecting the Site to Sha Tau Kok Road. The proposed Small House development is not entirely incompatible with the surrounding environment. Within the Site, a group of fruit trees providing some amenity to the area are in conflict with the proposed Small House. They have to be removed for the Small House construction if permission is granted. Yet, according to the site layout plan, there is no room for compensatory tree planting within the Site, and
- (c) should approval be given by the Board, landscape condition is considered not practicable given there is inadequate planting space for tree planting works as shown in the layout plan.

#### 5. **Drainage**

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

#### 6. **Fire Safety**

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

- (a) he has no in-principle objection to the application; and
- (b) 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 upon receipt of formal application referred by LandsD.

7. **Water Supply**

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

- (a) he has no objection to the application; and
- (b) for provision of water supply to the 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.

8. **Agriculture**

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

the Site is a fenced backyard and has a relatively small size (approximate 130 m<sup>2</sup>). As the Site possesses low potential for agricultural rehabilitation, he has no strong view against the application from agriculture point of view.

9. **District Officer's Comments**

Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Indigenous Inhabitant Representative of Ma Tseuk Leng Ha supports the application while the Chairman of Sha Tau Kok District Rural Committee and the incumbent North District Council member of the subject constituency have no comments on the application.

10. **Demand and Supply of Small House Site**

According to DLO/N, LandsD's records, the total number of outstanding Small House applications of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster is 66 while the 10-year Small House demand forecast for the same village cluster is 495\*. According to the latest estimate by PlanD, a total of about 2.37 ha (equivalent to 94 Small House sites) of land are available within the "V" zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster for Small House development (**Plan A-2b**). There is insufficient land in the "V" zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster to meet the future demand of Small Houses (i.e. about 14 ha which is equivalent to 561 Small House sites).

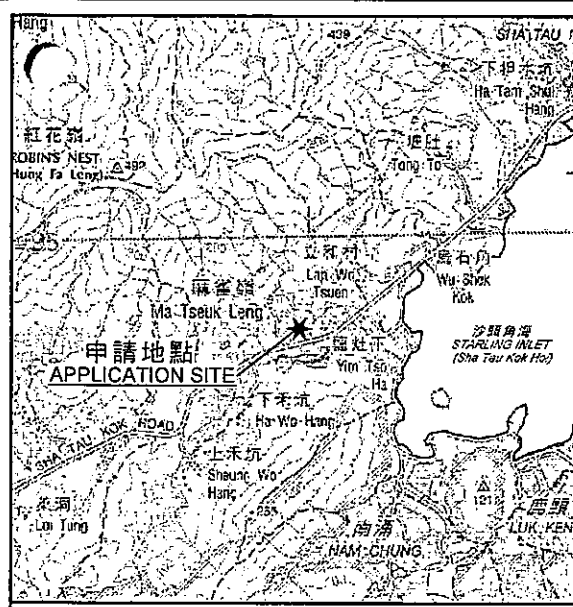
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\* The number of outstanding Small House application and the number of 10-year Small House demand forecast for Ma Tseuk Leng and Ma Tseuk Leng San Uk Ha are 60 and 115 respectively, whereas that for Shek Kiu Tau are 6 and 380 respectively.

**Recommended Advisory Clauses**

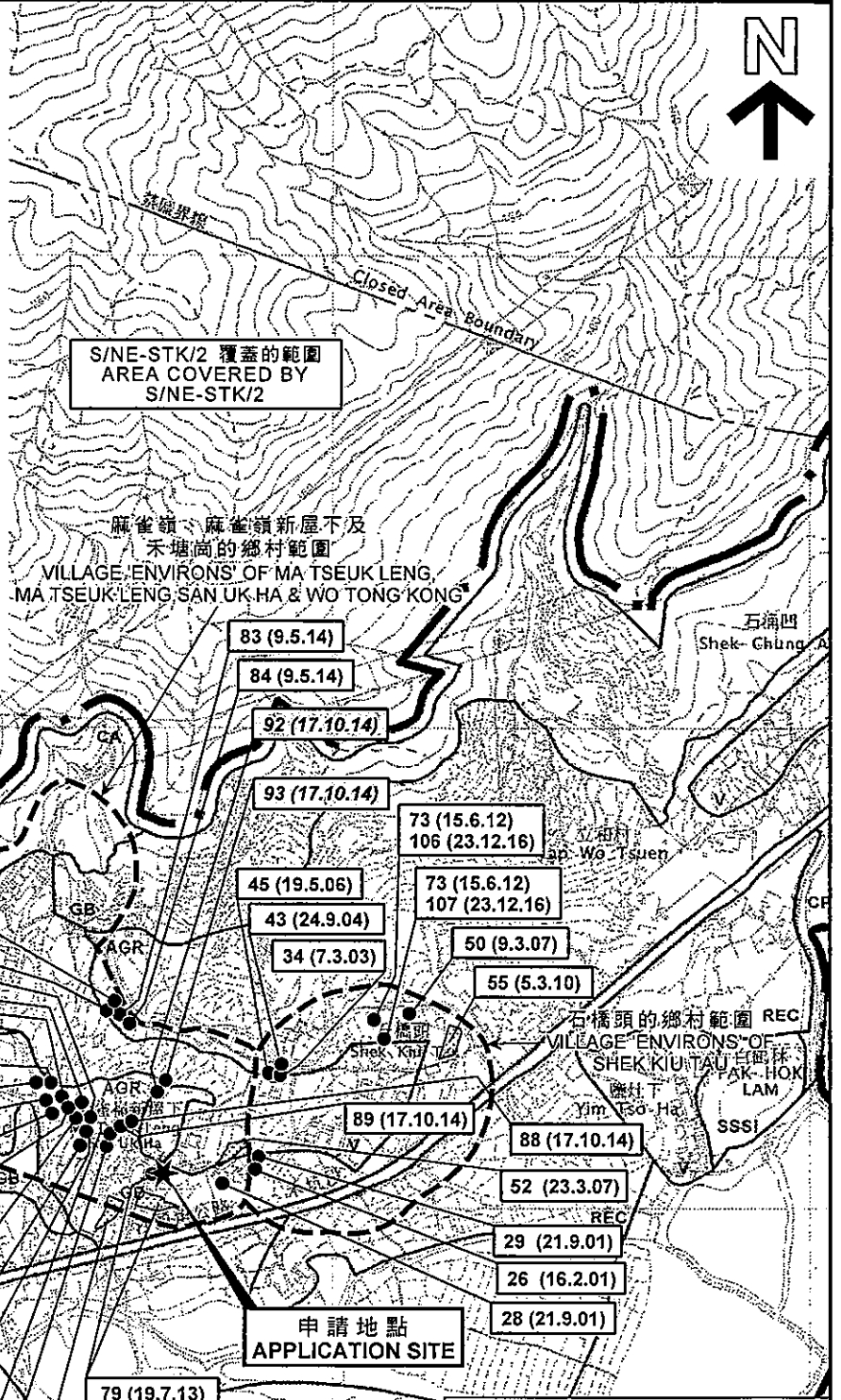
- (a) to note the advice of the DEP that the septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person;
- (b) to note the comments of the CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (c) to note the comments of the 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 upon receipt of formal application referred by LandsD;
- (d) to note the comments of the CE/C, WSD that for provision of water supply to the 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; and
- (e) 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.

( 來源 附件 1 )  
( Source : Appendix 1 )



### 要覽圖 KEY PLAN

SCALE 1 : 50 000 比例尺



S/NE-STK/2 覆蓋的範圍  
AREA COVERED BY  
S/NE-STK/2

麻雀嶺、麻雀嶺新屋不及  
禾塘崗的鄉村範圍  
VILLAGE ENVIRONS OF MA TSEUK LENG,  
MA TSEUK LENG SAN UK HA & WO TONG KONG

### 圖例 LEGEND

- 91 (17.10.14) 獲批准的申請  
APPROVED APPLICATION
- 93 (17.10.14) 被拒絕的申請  
REJECTED APPLICATION

- 91 (17.10.14) 會議日期  
DATE OF MEETING
- 91 (17.10.14) 申請編號  
APPLICATION NUMBER

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

### 位置圖 LOCATION PLAN

擬議屋宇 (新界豁免管制屋宇-小型屋宇)  
PROPOSED HOUSE (NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)

文量約份第39約地段第1356號B分段  
LOT 1356 S.B IN D.D. 39,  
MA TSEUK LENG SAN UK HA, SHA TAU KOK, N.T.

SCALE 1 : 7 500 比例尺

米 100 0 100 200 300 米  
METRES

本摘要圖於2018年8月21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-LK/11  
EXTRACT PLAN PREPARED ON 21.8.2018  
BASED ON OUTLINE ZONING PLAN  
No. S/NE-LK/11 APPROVED ON 17.10.2006

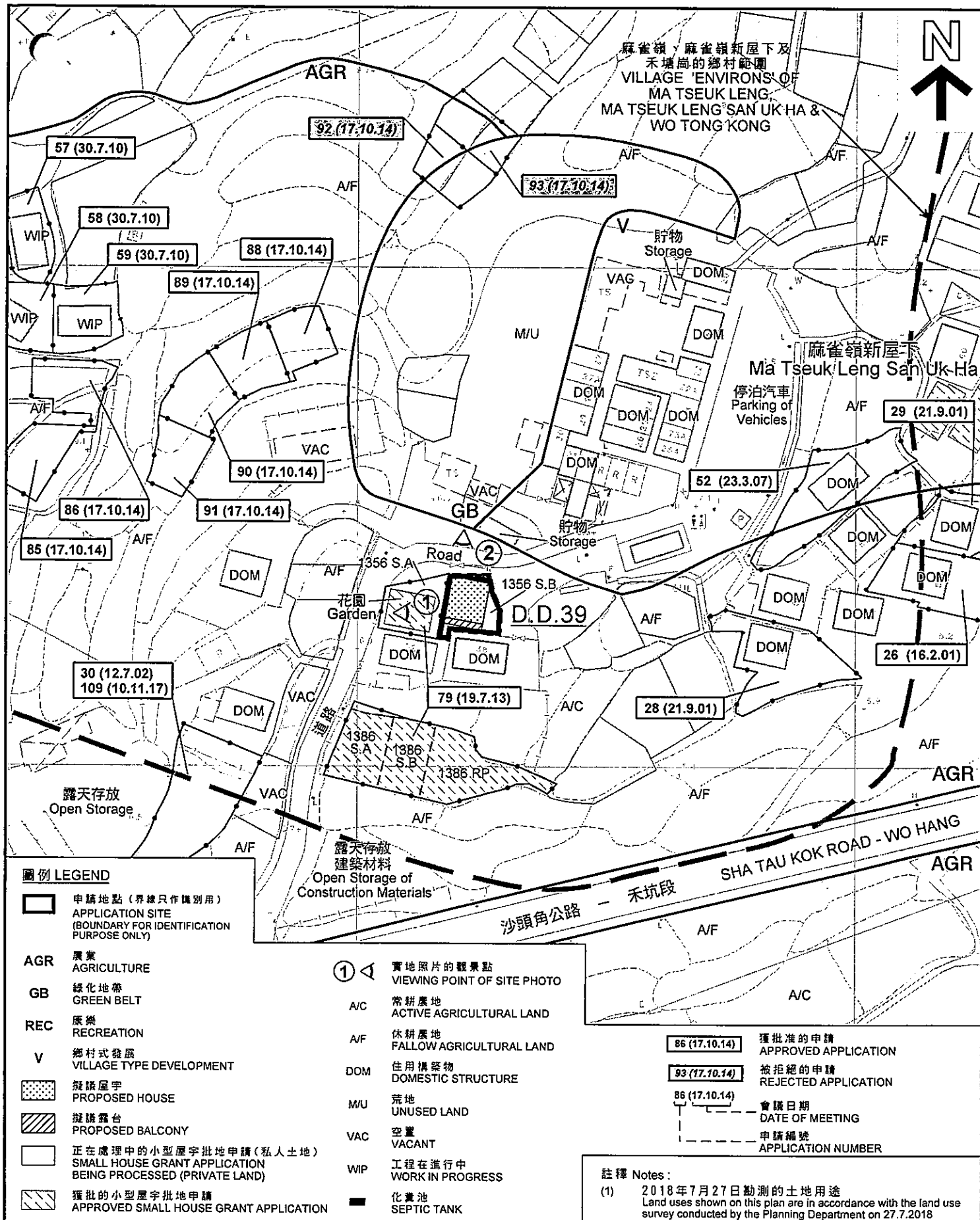
規劃署  
PLANNING  
DEPARTMENT



參考編號  
REFERENCE No.  
A/NE-LK/114

圖 PLAN  
A-1





本摘要圖於2018年8月24日擬備，  
所根據的資料為測量圖編號  
3-NE-16D  
EXTRACT PLAN PREPARED ON 24.8.2018  
BASED ON SURVEY SHEET No.  
3-NE-16D

平面圖 SITE PLAN  
擬議屋宇 (新界豁免管制屋宇-小型屋宇)  
新界沙頭角麻雀嶺新屋下  
丈量約份第39約地段第1356號B分段  
PROPOSED HOUSE  
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)  
LOT 1356 S.B IN D.D. 39,  
MA TSEUK LENG SAN UK HA, SHA TAU KOK, N.T.

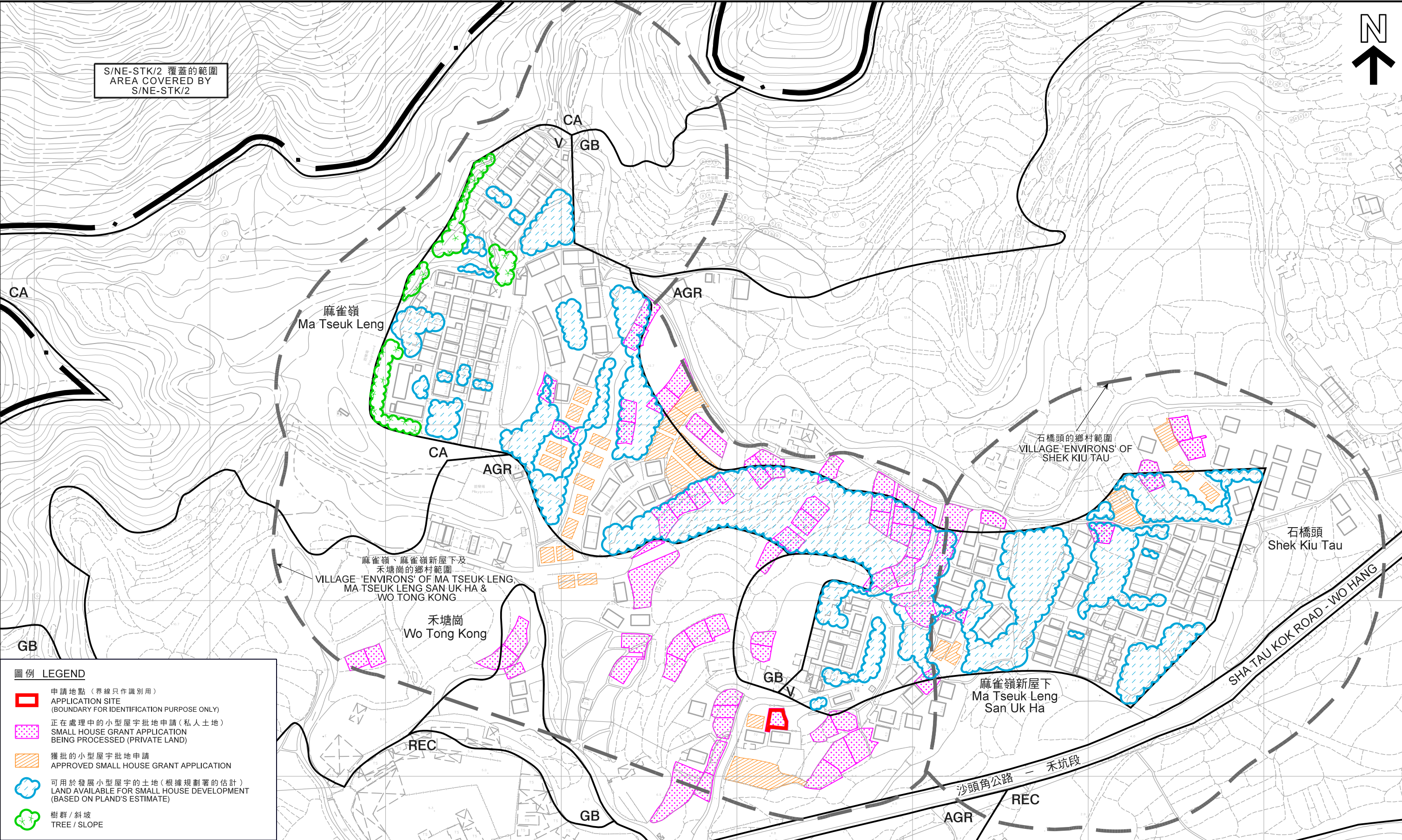
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米 METRES 20 0 20 40

規劃署  
PLANNING  
DEPARTMENT



參考編號  
REFERENCE No.  
A/NE-LK/114

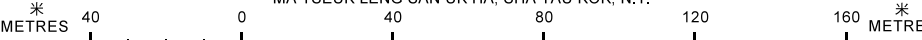
圖 PLAN  
A-2a



本摘要圖於2018年8月30日擬備，  
所根據的資料為測量圖編號  
3-NE-16B、16D、17A及17C  
EXTRACT PLAN PREPARED ON 30.8.2018  
BASED ON SURVEY SHEETS No.  
3-NE-16B, 16D, 17A & 17C

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)  
新界沙頭角麻雀嶺新屋下  
丈量約份第39約地段第1356號B分段  
PROPOSED HOUSE  
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)  
LOT 1356 S.B IN D.D. 39,  
MA TSEUK LENG SAN UK HA, SHA TAU KOK, N.T.



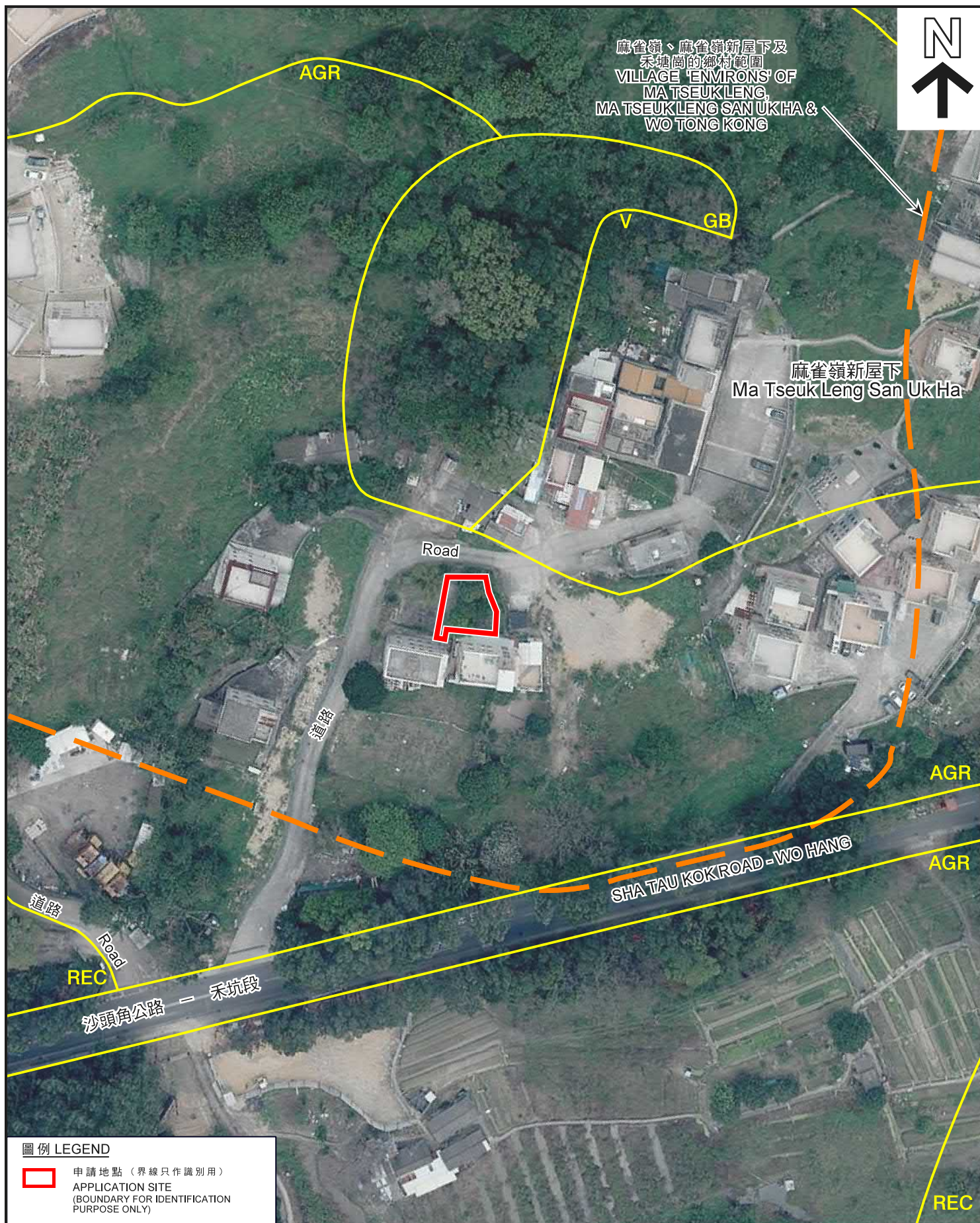
規 劃 署  
PLANNING  
DEPARTMENT



參考編號  
REFERENCE No.  
A/NE-LK/114

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2018年8月21日擬備，  
所根據的資料為地政總署  
於2017年3月28日拍得的航攝照片  
編號E015736C  
EXTRACT PLAN PREPARED ON 21.8.2018  
BASED ON AERIAL PHOTO No. E015736C  
TAKEN ON 28.3.2017 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)  
新界沙頭角麻雀嶺新屋下  
丈量約份第39約地段第1356號B分段  
PROPOSED HOUSE  
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)  
LOT 1356 S.B IN D.D. 39,  
MA TSEUK LENG SAN UK HA, SHA TAU KOK, N.T.

規劃署  
PLANNING  
DEPARTMENT



參考編號  
REFERENCE No.  
A/NE-LK/114

圖 PLAN  
A-3





攝於2018年8月3日的實地照片  
SITE PHOTO TAKEN ON 3.8.2018



攝於2018年7月27日的實地照片  
SITE PHOTO TAKEN ON 27.7.2018

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

### 實地照片 SITE PHOTOS

本圖於2018年8月21日擬備，所根據的資料為攝於2018年7月27日及2018年8月3日的實地照片  
PLAN PREPARED ON 21.8.2018 BASED ON SITE PHOTOS TAKEN ON 27.7.2018 & 3.8.2018

擬議屋宇(新界豁免管制屋宇-小型屋宇)  
新界沙頭角麻雀嶺新屋下  
丈量約份第39約地段第1356號B分段  
PROPOSED HOUSE  
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)  
LOT 1356 S.B IN D.D. 39,  
MA TSEUK LENG SAN UK HA, SHA TAU KOK, N.T.

規 劃 署  
PLANNING  
DEPARTMENT



參考編號  
REFERENCE No.  
A/NE-LK/114

圖 PLAN  
A-4

**Agenda Item 9****Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LK/114      Proposed House (New Territories Exempted House - Small House) in  
                         "Agriculture" Zone, Lot 1356 S.B in D.D. 39, Ma Tseuk Leng San Uk  
                         Ha, Sha Tau Kok  
                         (RNTPC Paper No. A/NE-LK/114)

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**Presentation and Question Sessions**

22.      Mr Tim T.Y. Fung, 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 9 and Appendix IV of the Paper. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application from the landscape planning point of view as the fruit trees had to be removed for the Small House development. The Commission for Transport (C for T) had reservation on the application but considered that application involving construction of only one Small House could be tolerated. Other concerned departments had no objection to or no adverse comment on the application;
- (d)    during the first three weeks of the statutory publication, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicated no comment on the application, while the Hong Kong Bird Watching Society and an individual objected to the application. Major objection grounds were set out in paragraph 10 of the Paper ; and

- (e) PlanD's views – PlanD did not support the application based on the assessment set out in paragraph 11 of the Paper. The application was not in line with the planning intention of the "Agriculture" ("AGR") zone, which was intended primarily to retain and safeguard good quality agricultural land land/farm/fish ponds for agricultural purposes. CTP/UD&L, PlanD did not support the application and C for T had reservation on the application. The application did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the applicant failed to demonstrate that the proposed development would not cause adverse landscape impacts on the surrounding area. As land available within the "Village Type Development" ("V") zone was sufficient to fully meet the total Small House demand, 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. After the adoption of 'cautious approach', only one similar application in the vicinity of the Site was approved in 2017 mainly for the reason that there was a previously approved application. The circumstances of the current application were different from that approved application. Regarding the adverse public comments, comments of concerned departments and the planning assessments above were relevant.

[Miss Winnie W.M. Ng arrived at the meeting at this point.]

23. In response to some Members' questions regarding the adoption of 'cautious approach' in considering Small House applications, Mr Tim T.Y. Fung, STP/STN, said that application No. A/NE-LK/109 was approved after the adoption of 'cautious approach' mainly because it was the subject of a previously approved application. The Secretary supplemented that the Committee considered a paper in 2014 regarding the assessment of applications for Small House development. While both the 10-year forecast of Small House demand and those outstanding Small House applications would be taken into account in the assessment, it was agreed by the Committee that more weighting would be put on the number of outstanding Small House applications provided by LandsD. If there was sufficient land in "V" zone to meet the outstanding Small House applications, a more 'cautious approach' would be adopted for considering planning applications for Small House development.

Deliberation Session

24. 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 in the Luk Keng and Wo Hang area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would involve vegetation clearance and hence affect the existing natural landscape; and
- (c) land is still available within the “Village Type Development” zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.”

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Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/672 Temporary Eating Place (Canteen) for a Period of 3 Years in  
“Agriculture” Zone, Lot 926 (Part) in D.D. 83, Lung Ma Road, Fanling  
(RNTPC Paper No. A/NE-LYT/672)

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## 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-LK/114

By Registered Post

21 September 2018

Yeung Siu Fung

Dear Sir/Madam,

**Proposed House (New Territories Exempted House - Small House)  
in "Agriculture" Zone, Lot 1356 S.B in D.D. 39,  
Ma Tseuk Leng San Uk Ha, Sha Tau Kok**

I refer to my letter to you dated 26.7.2018.

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 in the Luk Keng and Wo Hang area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would involve vegetation clearance and hence affect the existing natural landscape; and
- (c) land is still available within the "Village Type Development" zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures 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 7.9.2018 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 12.10.2018). 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 Mr. Tim Fung of Sha Tin, Tai Po & North District Planning Office at 2158 6237.

Yours faithfully,



( Raymond KAN )  
for Secretary, Town Planning Board

**Similar S.16 Applications for Proposed House (New Territories Exempted House - Small House)  
within/partly within the “Agriculture” zone in the vicinity of the application site  
in the Luk Keng and Wo Hang Area**

**Approved Applications**

<b><u>Application No.</u></b>	<b><u>Uses/ Development</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Approval Conditions</u></b>
A/NE-LK/26	Proposed New Territories Exempted House (NTEH) (Small House)	16.2.2001	A1, A2, A3 & A9
A/NE-LK/28	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1, A2 & A3
A/NE-LK/29	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1, A2 & A3
A/NE-LK/30 <sup>1</sup>	Proposed New Territories Exempted House (NTEH) (Small House)	12.7.2002	A1, A2 & A3
A/NE-LK/34	New Territories Exempted House (NTEH) (Small House)	7.3.2003	A1, A2, A3 & A9
A/NE-LK/43	Proposed New Territories Exempted House (NTEH) (Small House)	24.9.2004	A1, A2, A3 & A9
A/NE-LK/45	House (New Territories Exempted House (NTEH) - Small House)	19.5.2006	A2, A3, A10 & A11
A/NE-LK/50	Proposed House (New Territories Exempted House (NTEH) - Small House)	9.3.2007	A2, A3, A5 & A12
A/NE-LK/52	Proposed House (New Territories Exempted House (NTEH) - Small House)	23.3.2007	A2, A3, A4 & A5
A/NE-LK/55	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	5.3.2010	A2, A3, A5 & A6
A/NE-LK/57	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6

A/NE-LK/58	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6
A/NE-LK/59	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6
A/NE-LK/64	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/65	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/66	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/67	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/73 <sup>2,3</sup>	Proposed 2 Houses (New Territories Exempted Houses - Small Houses)	15.6.2012	A2, A3, A5, A6 & A13
A/NE-LK/77 <sup>4</sup>	Proposed House (New Territories Exempted House - Small House)	1.3.2013	A2, A3 & A5
A/NE-LK/79	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	19.7.2013	A3, A5 & A7
A/NE- LK/80 <sup>5</sup>	Proposed House (New Territories Exempted House - Small House)	6.9.2013	A2, A3 & A5
A/NE-LK/83	Proposed House (New Territories Exempted House - Small House)	9.5.2014	A2, A3, A5 & A8
A/NE-LK/84	Proposed House (New Territories Exempted House - Small House)	9.5.2014	A2, A3, A5 & A8
A/NE-LK/85	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/86	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/88	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8

A/NE-LK/89	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/90	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/91	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/94	Proposed House (New Territories Exempted House - Small House)	16.1.2015	A2, A3, A5 & A8
A/NE-LK/95	Proposed House (New Territories Exempted House - Small House)	16.1.2015	A2, A3, A5 & A8
A/NE-LK/106 <sup>2</sup>	Proposed House (New Territories Exempted House - Small House)	23.12.2016	A3, A5 & A8
A/NE-LK/107 <sup>3</sup>	Proposed House (New Territories Exempted House - Small House)	23.12.2016	A3, A5 & A8
A/NE-LK/109 <sup>1</sup>	Proposed House (New Territories Exempted House - Small House)	10.11.2017	A2, A3, A5 & A8
A/NE-LK/111 <sup>4</sup>	Proposed House (New Territories Exempted House - Small House)	16.3.2018	A5 & A8
A/NE-LK/112 <sup>5</sup>	Proposed House (New Territories Exempted House - Small House)	6.4.2018	A2, A5 & A8

#### Remarks

- \*<sup>1</sup>: The application no. A/NE-LK/30 involves the same site as the application no. A/NE-LK/109
- \*<sup>2</sup>: The application no. A/NE-LK/73 involves the same site as the application no. A/NE-LK/106
- \*<sup>3</sup>: The application no. A/NE-LK/73 involves the same site as the application no. A/NE-LK/107
- \*<sup>4</sup>: The application no. A/NE-LK/77 involves the same site as the application no. A/NE-LK/111
- \*<sup>5</sup>: The rejected application no. A/NE-LK/78 and approved application no. A/NE-LK/80 involves the same site as the application no. A/NE-LK/112

## **Approval Conditions:**

- |     |  |
|-----|--|
| A1  | The provision of drainage facilities   |
| A2  | The submission and implementation of landscaping proposals   |
| A3  | The commencement clause  |
| A4  | The design and provision of firefighting access, water supplies for firefighting and fire service installations  |
| A5  | The submission and implementation of drainage proposals  |
| A6  | The provision of firefighting access, water supplies for firefighting and fire service installations   |
| A7  | The submission and implementation of tree preservation and landscape proposals   |
| A8  | The provision of septic tank   |
| A9  | The provision of fire services installations   |
| A10 | The provision of fire fighting access to the site  |
| A11 | The design and provision of drainage facilities  |
| A12 | The design and provision of fire-fighting access, water supplies and fire service installations  |
| A13 | The setting back of the application site boundary to avoid encroaching onto the land requirement area under the 'Feasibility Study of Review of Drainage Master Plans in Yuen Long and North District' |

### **Rejected Applications**

<b><u>Application No.</u></b>	<b><u>Uses/ Development</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Rejection Reasons</u></b>
A/NE- LK/78 <sup>1</sup>	Proposed House (New Territories Exempted House - Small House)	1.3.2013	R1 & R2
A/NE-LK/92	Proposed House (New Territories Exempted House - Small House)	17.10.2014	R1, R3 – R6
A/NE-LK/93	Proposed House (New Territories Exempted House - Small House)	17.10.2014	R1, R3 – R6
A/NE-LK/115	Proposed House (New Territories Exempted House - Small House)	2.11.2018	R1 & R8
A/NE-LK/116	Proposed House (New Territories Exempted House - Small House)	2.11.2018	R1, R7 & R8
A/NE-LK/117	Proposed House (New Territories Exempted House - Small House)	2.11.2018	R1 & R8

### **Remarks**

<sup>\*1</sup>: The rejected application no. A/NE-LK/78 and approved application no. A/NE-LK/80 involves the same site as the approved application no. A/NE-LK/112

### **Rejection Reasons:**

- R1        The proposed development was not in line with the planning intention of the "Agriculture" zone in the Luk Keng and Wo Hang area which was 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 was no strong planning justification in the submission for a departure from the planning intention.
- R2        The proposed development was located in the immediate vicinity of a natural stream. There was insufficient information in the subject application to demonstrate that the proposed development would not cause adverse impact on the stream.

- R3        The proposed development was not in line with the planning intention of the "Green Belt" ("GB") zone in the Luk Keng and Wo Hang area which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention.
- R4        The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories and Town Planning Board Guidelines No. 10 on 'Application for Development within "GB" Zone under Section 16 of the Town Planning Ordinance' in that the proposed development would involve clearance of vegetation and would affect the existing natural landscape on the surrounding environment.
- R5        Land was still available within the "Village Type Development" zone of Ma Tseuk Leng where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services.
- R6        The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area.
- R7        The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse drainage impacts on the surrounding areas.
- R8        Land was still available within the "Village Type Development" zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.

**Recommended Advisory Clauses**

- (a) to note the advice of the DEP that the septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person;
- (b) to note the comments of the CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (c) to note the comments of the 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 upon receipt of formal application referred by LandsD;
- (d) to note the comments of the CTP/ UD&L, PlanD that the Applicant is reminded to approach relevant authority / government department(s) direct to obtain the necessary approval on tree works such as felling, transplanting or pruning under lease. Upon completion of landscape works, the applicant is advised to provide completion photo records with viewpoints indicated on plan. All tree photos should cover the entire tree, including tree pit and tree crown for our consideration.
- (e) to note the comments of the CE/C, WSD that for provision of water supply to the 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; and
- (f) 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.