

RNTPC Paper No. A/NE-LYT/641
for Consideration by the
Rural and New Town Planning
Committee on 22.12.2017

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/641

- Applicant** : Mr. LEE Lok Hang represented by Heng Fai Consulting Limited
- Site** : Lot 586 S.B ss.3 in D.D. 85, Lau Shui Heung, Fanling, New Territories
- Site Area** : 192.1 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP)
No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, who claimed to be an indigenous villager¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Lau Shui Heung Village, Fanling (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use within the “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 ²
Number of Storeys	: 3
Building Height	: 8.23 m
Roofed Over Area	: 65.03 m ²

Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**.

¹ According to District Lands Officer/North, Lands Department, the applicant claimed himself to be an indigenous villager of Lau Shui Heung of Fanling Heung. His eligibility for Small House concessionary grant has yet to be ascertained.

- 1.3 In support of the application, the applicant has submitted the Application Form with attachments and supplementary information (**Appendices I and Ia**) which were received on 30.10.2017 and 3.11.2017 respectively.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in part 9 of the Application Form in **Appendix I**. They can be summarized as follows:

- (a) the applicant is an indigenous village of Lau Shui Heung Village and is entitled to build a Small House;
- (b) the proposed Small House will not cause adverse environmental and drainage impacts to the surrounding areas; and
- (c) the applicant was advised by District Lands Officer/North, Lands Department (DLO/N, LandsD) to submit planning application for construction of a Small House.

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

5. Previous Application

There is no previous application for the Site.

6. Similar Applications

- 6.1 There are two similar applications in the vicinity of the Site for Small House development within the “AGR” zone in the vicinity of the Site (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. Both of them were rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 19.6.2015 mainly on the considerations that the proposed developments were not in line with the planning intention of the “AGR” zone; and land was still available in the “V” zone of Lau Shui Heung Village for Small House development.
- 6.2 Details of the applications are summarized 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, A-3 and A-4)

7.1 The Site is:

- (a) located at the west of the “V” zone of Lau Shui Heung Village and entirely falls within the village ‘environs’ (‘VE’) of Lau Shui Heung Village;
- (b) currently overgrown with grasses and some scattered trees and shrubs; and
- (c) accessible on foot only.

7.2 The surrounding area has the following characteristics:

- (a) a rural landscape character dominated by active/fallow farmland, village houses and vacant land;
- (b) surrounded by fallow agricultural land, and to the further east are village houses within the “V” zone;
- (c) wooded knolls zoned “GB” could be founded to the south of the Site; and
- (d) to the west and southwest across Kwan Tei River are fallow/active agricultural land, a plant nursery and some vacant land, and to the further northwest are open storage yards.

8. **Planning Intention**

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

9. **Comments from Relevant Government Departments**

9.1 The 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?			
	- The Site	-	100%	The Site and footprint of the proposed Small House fall entirely within “AGR” zone.
	- Footprint of the proposed Small House	-	100%	
2.	Within ‘VE’?			
	- The Site	100%	-	DLO/N advises that the Site falls entirely within the ‘VE’ of Lau Shui Heung Village.
	Footprint of the	100%	-	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	proposed Small House			
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> - Land required to meet the Small House demand in Lau Shui Heung Village: about 5.15 ha (equivalent to 206 Small House sites). The outstanding Small House applications for Lau Shui Heung Village are 26 while the 10-year Small House demand forecast for the same village is 180. - Land available to meet the Small House demand within the “V” zone in Lau Shui Heung Village: about 0.43 ha (equivalent to 17 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Site is an abandoned land overgrown with vegetation. Active agricultural activities can be found in its vicinity. The application is not supported from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. - There is a natural stream to the southeast of the Site, should the application be approved, appropriate measures should be undertaken, especially during the construction stage, to prevent the development from polluting the nearby stream.
5.	Compatible with surrounding area/ development?	✓		The proposed Small House is not incompatible with the surrounding rural setting and environment dominated by village houses and active/fallow agricultural land (Plan A-2a).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has reservation on the application and advises that Small House 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 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. - 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.
10.	Drainage impact?	✓		The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewage impact?		✓	<ul style="list-style-type: none"> - The 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. - The applicant should also be reminded to take appropriate measures as listed in the EPD guideline "Recommended Pollution Control Clauses for Construction Contracts" to prevent contaminated surface runoff and other wastewater from being discharged into the river during construction stage.
12.	Landscaping impact?		✓	- The Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD) has no objection to the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>application from the landscape planning point of view.</p> <ul style="list-style-type: none"> - The Site situated in an area of rural landscape character comprising natural landscape with scrubland and wooded areas, a few scattered small village clusters and some active/abandoned farmland. Thus, the proposed development is not entirely incompatible with the surrounding landscape setting. According to her site record in November 2017, the Site is covered with wild grasses and some young tree saplings and bamboos were found in the western portion of the Site. Significant adverse impact on the landscape resource arising from the proposed Small House is not anticipated. - Having said that, the approval of the application would set an undesirable precedent to encourage application of similar use spreading into the "AGR" zone, causing potential adverse impact on the landscape resource and character. It may create a ripple effect which will lead to gradual irreversible modification of the landscape character in the area. - Should the application be approved by the Board, an approval condition on the submission and implementation of landscape proposal is recommended.
13.	Local objection conveyed by DO?		✓	<p>District Officer (North) (DO(N)) advises that the Chairman of Fanling District Rural Committee (FDRC) and the Resident Representative of Lau Shui Heung have no comment on the application whereas the Indigenous Inhabitant Representative of Lau Shui Heung supports the application that it is reasonable for the indigenous villager to build a Small House at his own village.</p>

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

(a) District Lands Officer/North, Lands Department;

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

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

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

10. Public Comments Received During Statutory Publication Period

On 7.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 28.11.2017, eight public comments on the application (**Appendix V**) were received. A North District Council member supports the application as it can provide convenience to the villagers whereas the Chairmen of the FDRC and Sheung Shui District Rural Committee indicate no comment on the application. The remaining comments from the Designing Hong Kong Limited, World Wide Fund for Nature Hong Kong, The Hong Kong Bird Watching Society, Kadoorie Farm and Botanic Garden Corporation and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; land is still available within “V” zone for Small House development; there are similar applications rejected by the Committee; and the setting of an undesirable precedent for similar applications in the area.

11. Planning Considerations and Assessments

- 11.1 The Site falls within an area zoned “AGR” on the OZP (**Plans A-1 and A-2a**). The proposed Small House is not in line with the planning intention of the “AGR” zone which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural development point of view as the Site possesses potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Lau Shui Heung Village is 26 while the 10-year Small House demand forecast for the same village is 180. According to the latest estimate by PlanD, about 0.43 ha (equivalent to 17 Small House sites) of land are available in the “V” zone of Lau Shui Heung Village for Small House development (**Plan A-2b**). The footprint of the proposed Small House falls entirely within the ‘VE’ of Lau Shui Heung Village.
- 11.3 The Site is situated to the west of the village proper of Lau Shui Heung Village and is not incompatible with the surrounding area which is in a rural landscape character dominated by village houses, active/fallow farmland and vacant land (**Plan A-2a**).

Significant adverse landscape impact arising from the proposed development is not anticipated. In this regard, CTP/UD&L, PlanD, has no objection to the application. C for T 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 D of FS, DEP and CE/MN of DSD, 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 Lau Shui Heung Village (**Plan A-2a**) and land available within the “V” zone (about 0.43 ha equivalent to 17 Small House sites) is insufficient to meet the outstanding 26 Small House applications and the future Small House demand forecast of 180 (in total about 5.15 ha or equivalent to 206 Small House sites).
- 11.5 There are two similar applications for Small House development in the vicinity of the Site and both of them were rejected by the Committee in June 2015 mainly on the considerations that the proposed developments were not in line with the planning intention of the “AGR” zone; and land was still available in the “V” zone of Lau Shui Heung Village for Small House development. Land available within the “V” zone (about 0.43 ha equivalent to 17 Small House sites) at that time was still sufficient to meet the outstanding 4 Small House applications at the time of consideration. The planning circumstances of the rejected cases are different from the current application as there is insufficient land in “V” zone to meet the outstanding Small House applications under the current application.
- 11.6 Regarding the adverse public comments mainly on the ground of not in line with the planning intention of “AGR” zone, land available within “V” zone, similar rejected applications in the vicinity of the Site and the setting of an undesirable precedent, Government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 22.12.2021, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

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

- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone in the Lung Yeuk Tau and Kwan Tei South area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) 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.

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

Appendix I	Application Form with Attachments received on 30.10.2017
Appendix Ia	Supplementary Information received on 3.11.2017
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Similar s.16 Applications for Proposed House (NTEH – Small House) within the "AGR" Zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan

Plan A-2b	Estimated Amount of Land Available within the “V” zone of Lau Shui Heung Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2017**

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 (NTEH – Small House)
within the “Agriculture” zone in the vicinity of the Site
in the Lung Yeuk Tau and Kwan Tei South Area**

Rejected Applications

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-LYT/569	Proposed New Territories Exempted House (NTEH) (Small House)	19.6.2015	R1 & R2
A/NE-LYT/571	Proposed New Territories Exempted House (NTEH) (Small House)	19.6.2015	R1 & R2

Rejection Reasons

- R1 The proposed development was not in line with the planning intention of the “Agriculture” zone 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 Land was still available within the “Village Type Development” zone of Lau Shui Heung Village which 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.

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 entirely within the ‘VE’ of Lau Shui Heung Village;
- (b) the applicant claimed himself as an indigenous villager of Lau Shui Heung of Fanling Heung but his eligibility for Small House concessionary grant has yet to be ascertained;
- (c) the Site is not covered by any Modification of Tenancy/Building License;
- (d) the number of outstanding Small House application and the number of 10-year Small House demand forecast for Lau Shui Heung (2017 to 2026) are 26 and 180 respectively. The figure of the 10-year Small House demand forecast was provided by the relevant Indigenous Inhabitant Representative without any supporting evidence and his office is not in a position to verify the forecast; and
- (e) the Small House grant application in respect of the Site was received by his office on 22.8.2013.

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 “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 only involves construction of one Small House. She considers that the application can be tolerated unless it is 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 pollution;
- (b) 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; and

- (c) it is noted that there is no existing sewerage in the vicinity. The applicant should also be reminded to take appropriate measures as listed in the EPD guideline “Recommended Pollution Control Clauses for Construction Contracts” to prevent contaminated surface runoff and other wastewater from being discharged into the river during construction stage. A web link to the said guideline is shown below: http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html

4. Landscape

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

- (a) she has no objection to the application from the landscape planning point of view;
- (b) based on the aerial photo of 2017, the Site is situated in an area of rural landscape character predominantly comprising natural landscape with scrubland and wooded areas, a few scattered small village clusters and some active/fallow farmland. Thus, the proposed development is not entirely incompatible with the surrounding landscape setting. According to her site record in November 2017, the Site is covered with wild grasses and some young tree saplings and bamboos were found in the western portion of the Site. Significant adverse impact on the landscape resource arising from the proposed Small House is not anticipated;
- (c) having said that, the approval of the application would set an undesirable precedent to encourage application of similar use spreading into the “AGR” zone, causing potential adverse impact on the landscape resource and character. It may create a ripple effect which will lead to gradual irreversible modification of the landscape character in the area; and
- (d) should approval be given by the Board, an approval condition on the submission and implementation of landscape proposal is recommended.

5. Drainage

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

- (a) he has no in-principle objection to the application from 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. Agriculture

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

- (a) the Site is an abandoned land overgrown with vegetation. Active agricultural

activities can be found in the vicinity of the Site. As such, the application is not supported from agriculture point of view as the Site possesses potential for agricultural rehabilitation; and

- (b) there is a natural stream to the southeast of the Site. Should the subject application be approved, appropriate measures should be undertaken, especially during the construction stage, to prevent the development from polluting the nearby stream.

7. 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.

8. 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.

9. District Officer's Comments

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

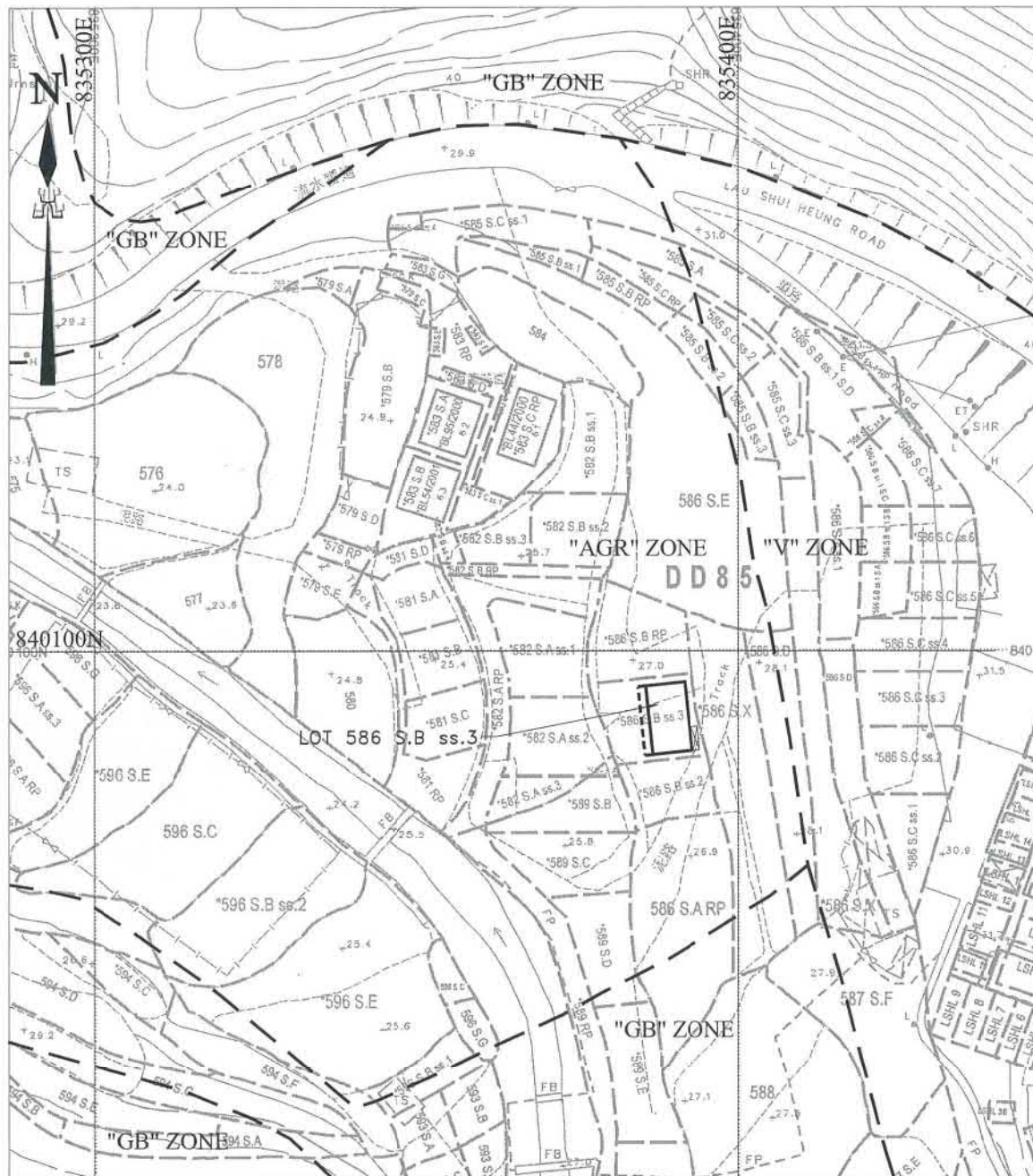
he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee and the Resident Representative of Lau Shui Heung have no comment on the application whereas the Indigenous Inhabitant Representative of Lau Shui Heung supports the application that it is reasonable for the indigenous villager to build a Small House at his own village.

10. Demand and Supply of Small House Sites

According to DLO/N's records, the total number of outstanding Small House application for Lau Shui Heung Village is 26 while the 10-year Small House demand forecast for the same village is 180. According to the latest estimate by PlanD, about 0.43 ha (equivalent to 17 Small House sites) of land are available within the "V" zone of Lau Shui Heung Village. There is insufficient land in the "V" zone of Lau Shui Heung Village to meet the demand of Small Houses (i.e. about 5.15 ha of land which is equivalent to 206 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of CE/C, WSD that for provision of water supply to the development, the applicant may need to extend the inside services to 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 should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (b) to note the comments of D of FS that the applicant should 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;
- (c) to note the comments of CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (d) to note the comments of DAFC that appropriate measures should be undertaken, especially during the construction stage, to prevent the development from polluting the nearby stream;
- (e) to note the advice of DEP on the following:
 - (a) 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; and
 - (b) the applicant should take appropriate measures as listed in the EPD guideline "Recommended Pollution Control Clauses for Construction Contracts" to prevent contaminated surface runoff and other wastewater from being discharged into the river during construction stage of the project. A web link to the said guideline is shown below: http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html; 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.



REFERENCED LOT INDEX PLAN NO. 3SW-9D (09/10/2017)

LEGEND :

- EXTENT OF PROPOSED SMALL HOUSE (10.668m x 6.096m = 65.03m²)
- EXTENT OF BALCONIES & CANOPY OF PROPOSED SMALL HOUSE (PROJECTION = 1.22m)
- ⊗ PROPOSED LOCATION OF SEPTIC TANKS & SOAKAGE PIT SYSTEM

HENG FAI CONSULTING LIMITED
恒輝專業顧問有限公司

14/F., BANK OF COMMUNICATIONS BUILDING, NO. 563 NATHAN ROAD, YAU MA TEI, KLN.

電話 : 2687 6556
 傳真 : 2687 6596

PROJECT:

ONE SMALL HOUSE ON LOT NO. 586 S.B ss.3 IN D.D. 85
 LAU SHUI HEUNG, FANLING, N.T.

TITLE: PROPOSED SMALL HOUSE PLAN

DWG. NO.: 17/31/H01

SCALE: ~~1:1000~~

DATE: 16/10/2017

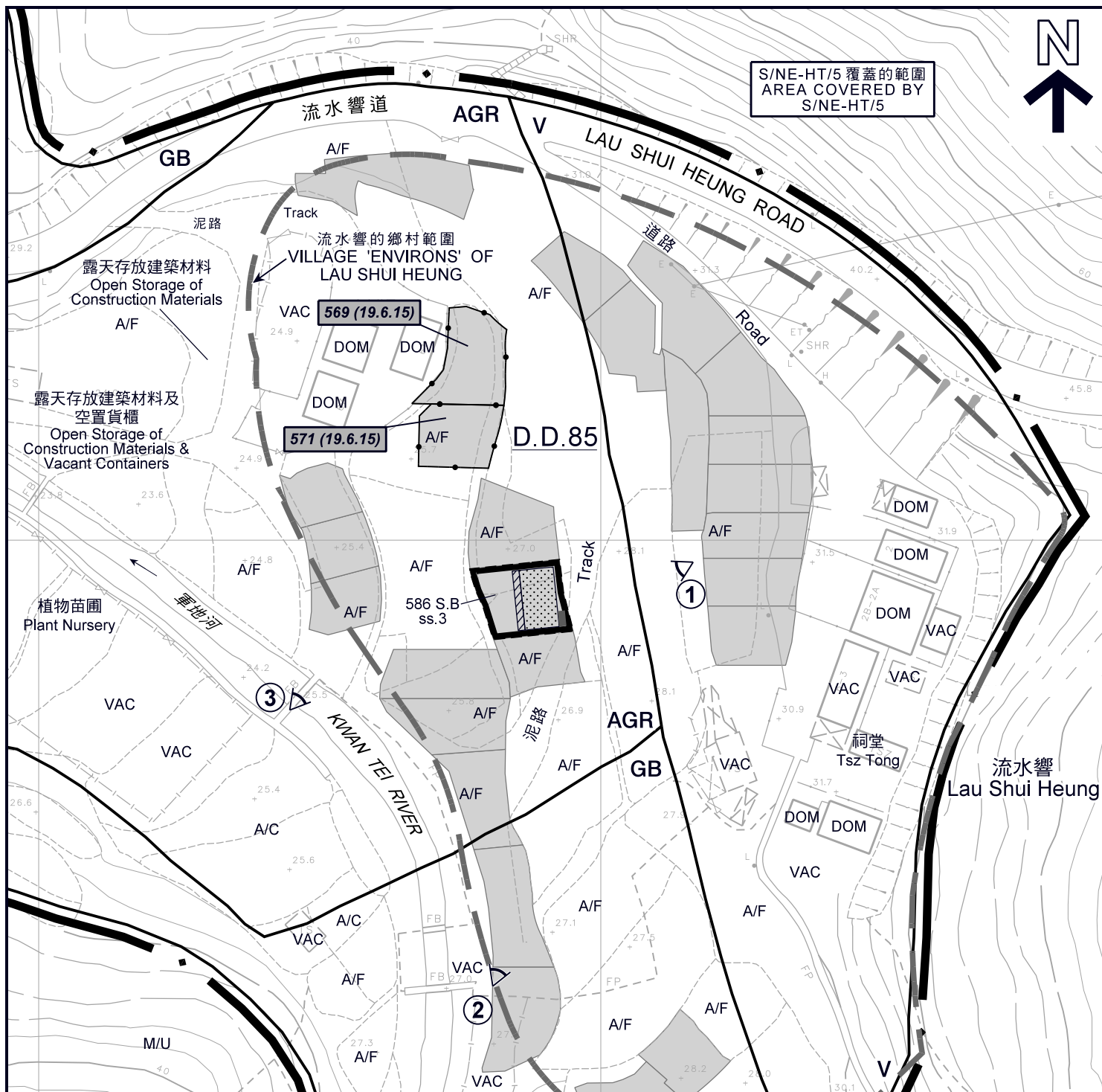
D:\Projects\D.D. 85 Lau Shui Heung\LOT 586 B3\HOUSE PLAN\H01.dwg

參考編號

REFERENCE No. A/NE-LYT/641

繪圖 DRAWING A-1

(來源 附件 I)
 (Source : Appendix I)



圖例 LEGEND

- 申請地點 (界線只作識別用)
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION PURPOSE ONLY)
- 擬議屋宇
PROPOSED HOUSE
- 擬議露台
PROPOSED BALCONY
- 正在處理中的小型屋宇批地申請 (私人土地)
SMALL HOUSE GRANT APPLICATION
BEING PROCESSED (PRIVATE LAND)
- 化糞池
SEPTIC TANK
- AGR** 農業
AGRICULTURE

- GB** 綠化地帶
GREEN BELT
- V** 鄉村式發展
VILLAGE TYPE DEVELOPMENT
- A/C** 常耕農地
ACTIVE AGRICULTURAL LAND
- A/F** 休耕農地
FALLOW AGRICULTURAL LAND
- DOM** 住用構築物
DOMESTIC STRUCTURE
- M/U** 荒地
UNUSED LAND
- VAC** 空置
VACANT

- 實地照片的觀景點
VIEWING POINT OF SITE PHOTO
- 被拒絕的申請
REJECTED APPLICATION
- 會議日期
DATE OF MEETING
- 申請編號
APPLICATION NUMBER

註釋 Note:

- (1) 2017年11月13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 13.11.2017

平面圖 SITE PLAN

本摘要圖於2017年12月1日擬備，
所根據的資料為測量圖編號
3-SW-9D
EXTRACT PLAN PREPARED ON 1.12.2017
BASED ON SURVEY SHEET No. 3-SW-9D

擬議屋宇 (新界豁免管制屋宇 - 小型屋宇)
新界粉嶺流水響丈量約份第85約
地段第586號B分段第3小分段
PROPOSED HOUSE
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 586 S.B. ss.3 IN D.D. 85, LAU SHUI HEUNG,
FANLING, N.T.
SCALE 1:1 000 比例尺

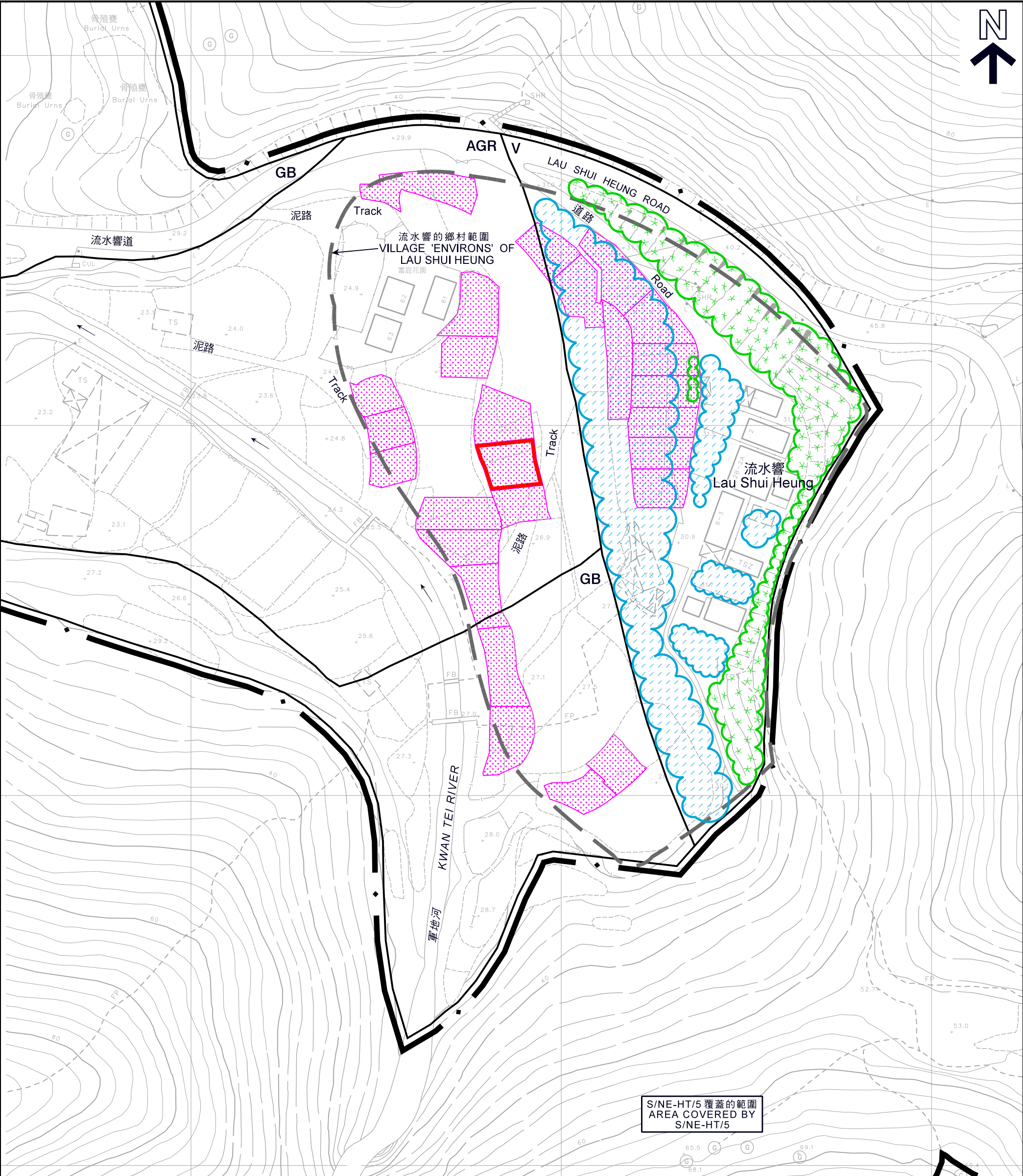
米 20 0 20 40 米
METRES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-LYT/641

圖 PLAN
A-2a



圖例 LEGEND

-  申請地點（界線只作識別用）
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION PURPOSE ONLY)
-  正在處理中的小型屋宇批地申請（私人土地）
SMALL HOUSE GRANT APPLICATION
BEING PROCESSED (PRIVATE LAND)
-  可用於發展小型屋宇的土地（根據規劃署的估計）
LAND AVAILABLE FOR SMALL HOUSE DEVELOPMENT
(BASED ON PLAND'S ESTIMATE)
-  樹群 / 斜坡
TREE / SLOPE

S/NE-HT/5 覆蓋的範圍
AREA COVERED BY
S/NE-HT/5

沒有分區計劃大綱圖
覆蓋的範圍
AREA NOT
COVERED BY OZP

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）
新界粉嶺流水響丈量約份第85約地段第586號B分段第3小分段
PROPOSED HOUSE
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 586 S.B ss.3 IN D.D. 85, LAU SHUI HEUNG, FANLING, N.T.



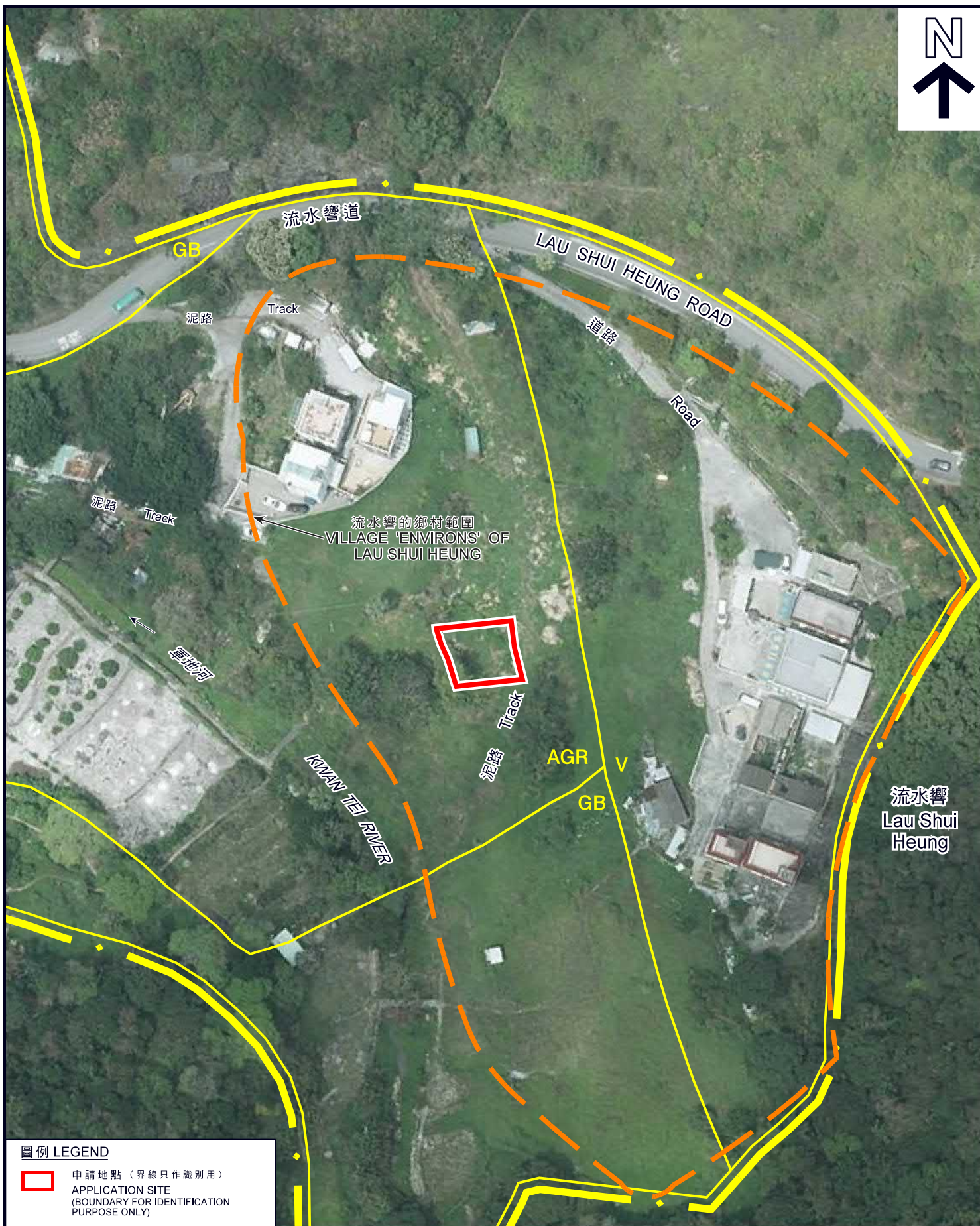
本摘要圖於2017年12月1日擬備，
所根據的資料為測量圖編號
3-SW-9B及9D
EXTRACT PLAN PREPARED ON 1.12.2017
BASED ON SURVEY SHEETS No.
3-SW-9B & 9D

規 劃 署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-LYT/641

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)

航攝照片 AERIAL PHOTO

擬議屋宇 (新界豁免管制屋宇-小型屋宇)
新界粉嶺流水響丈量約份第85約
地段第586號B分段第3小分段

PROPOSED HOUSE
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 586 S.B ss.3 IN D.D. 85, LAU SHUI HEUNG,
FANLING, N.T.

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-LYT/641

圖 PLAN
A-3

本摘要圖於2017年11月24日擬備，
所根據的資料為地政總署
於2017年4月4日拍得的航攝照片
編號E019269C
EXTRACT PLAN PREPARED ON 24.11.2017
BASED ON AERIAL PHOTO No. E019269C
TAKEN ON 4.4.2017 BY
LANDS DEPARTMENT



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2017年11月24日擬備，所根據的資料為攝於2017年11月13日的實地照片
PLAN PREPARED ON 24.11.2017 BASED ON SITE PHOTOS TAKEN ON 13.11.2017

擬議屋宇（新界豁免管制屋宇-小型屋宇）
新界粉嶺流水響丈量約份第85約
地段第586號B分段第3小分段
PROPOSED HOUSE
(NEW TERRITORIES EXEMPTED HOUSE - SMALL HOUSE)
LOT 586 S.B ss.3 IN D.D. 85, LAU SHUI HEUNG,
FANLING, N.T.

規 劃 署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-LYT/641

圖 PLAN
A-4

Extracted from Confirmed Minutes of 594th Meeting of RNTPC held on 22.12.2017

Agenda Item 16

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/641 Proposed House (New Territories Exempted House - Small House) in
“Agriculture” Zone, Lot 586 S.B. ss.3 in D.D. 85, Lau Shui Heung,
Fanling
(RNTPC Paper No. A/NE-LYT/641)

Presentation and Question Sessions

58. 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) the proposed house (New Territories Exempted House – Small House);
- (c) departmental comments – departmental comments were set out in paragraph 9 and Appendix IV of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site possessed potential for agricultural rehabilitation. Other concerned government departments had no objection to or no adverse comments on the application;
- (d) during the first three weeks of the statutory publication period, eight public comments were received. One public comment from a North District Council member supported the application, while two from the Chairmen of the Fanling District Rural Committee and the Sheung Shui District Rural Committee indicated no comment on the application. The remaining five public comments from Designing Hong Kong Limited, World Wide Fund for Nature Hong Kong, The Hong Kong Bird Watching Society, Kadoorie

Farm & Botanic Garden Corporation and an individual objected to the application. Major views and objection grounds were set out in paragraph 10 of the Paper; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper. The proposed Small House was not incompatible with the surrounding areas. Significant adverse landscape impact arising from the proposed Small House was not anticipated. Regarding the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories, more than 50% of the footprint of the proposed Small House fell within the village 'environs' ('VE') of Lau Shui Heung Village. Land available within the "Village Type Development" ("V") zone was insufficient to meet the outstanding Small House applications and the future Small House demand forecast. Regarding the adverse public comments, the comments of government departments and planning assessments above were relevant.

59. Members had no question on the application.

Deliberation Session

60. The Committee noted that there were two similar applications (No. A/NE-LYT/569 and 571) for Small House development located to the north of the site and both of them were rejected by the Committee in 2015 mainly on the ground that land was still available within the "V" zone of Lau Shui Heung Village for Small House development at that time, in particular there were only four outstanding Small House applications at the time of consideration. The planning circumstances of the rejected applications were different from the current application as land available within the "V" zone was not able to meet the 26 outstanding Small House applications.

61. According to Plan A-2b, the Committee noted that land circled in blue was land still available within the "V" zone for Small House development and its total area could accommodate 17 Small Houses. Major roads and *fung shui* woodland had already been excluded from the estimation of available land. The area shaded in pink was the 26 outstanding Small House grant applications for Lau Shui Heung Village (i.e. falling within

“V”, “Agriculture” (“AGR”) and “Green Belt” zones) currently being processed by the Lands Department (LandsD) but had not yet been approved. Of these, around 16 Small House grant applications fell outside the “V” zone, and planning permission from the Committee was also required. Apart from the subject application and the two previously rejected applications, no section 16 application in the area had been received so far.

62. The Committee noted that the applicant did not own any land within the “V” zone. The piece of land under his ownership, which was the site under the subject application, was located within the “AGR” zone and planning permission for Small House development was required.

63. The Chairman said that the Committee had adopted a more cautious approach in considering applications for Small House development in recent years. If there was sufficient land in the concerned “V” zone to accommodate the outstanding Small House applications being processed by LandsD, the Committee would adopt a more cautious approach and normally not approve the planning applications under such circumstance. For the subject application, as land available within the “V” zone of Lau Shui Heung Village was only able to accommodate 17 Small Houses while the number of outstanding Small House applications was 26, PlanD had no objection to the subject application. The Committee also noted that the 10-year Small House demand for Lau Shui Heung Village was 100 and 180 in 2015 and 2017 respectively.

64. A Member said that Kwan Tei River, to the west of the site, might be of special ecological interest. Given that the boundary of the ‘VE’ of Lau Shui Heung Village was adjacent to the river, the Member was concerned that future Small House developments in the subject “AGR” zone would have adverse impact on the river. A Member further said that a 20m to 30 m wide buffer would normally be reserved between an ecologically important stream (EIS) and developments. The Committee noted that since Kwan Tei River was not an EIS, LandsD would normally require a minimum 3m wide buffer between the river and any Small House development. Should the application be approved, an approval condition on the submission and implementation of the drainage proposal was required. The Member, who was concerned about Kwan Tei River, had reservation on the application as the 3m buffer distance requested by LandsD would not be enough to protect the river, and considered that approval of the application would set an undesirable precedent for similar applications in

the area and the cumulative impacts would result in pollution to the river.

65. The Chairman said that should the application be approved, it would be the first approved application for Small House development in the subject “AGR” zone. Some Members considered that approval of the application might set an undesirable precedent to encourage other similar applications in the subject “AGR” zone and had reservation on the application.

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

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

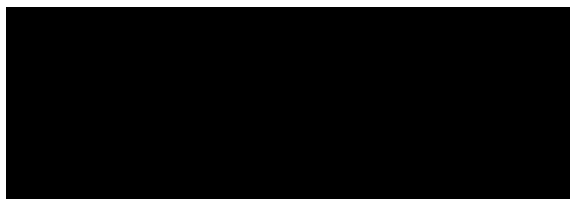
來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/NE-LYT/641

By Registered Post & Fax (2687 6596)

12 January 2018



Dear Sir/Madam,

**Proposed House (New Territories Exempted House - Small House)
in "Agriculture" Zone, Lot 586 S.B. ss.3 in D.D. 85, Lau Shui Heung, Fanling**

I refer to my letter to you dated 6.11.2017.

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

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 22.12.2017 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 2.2.2018). 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

Recommended Advisory Clauses

- (a) to note the comments of CE/C, WSD that for provision of water supply to the development, the applicant may need to extend the inside services to 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 should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (b) to note the comments of D of FS that the applicant should 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;
- (c) to note the comments of CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (d) to note the comments of DAFC that appropriate measures should be undertaken, especially during the construction stage, to prevent the development from polluting the nearby stream;
- (e) to note the advice of DEP on the following:
 - (i) 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; and
 - (ii) the applicant should take appropriate measures as listed in the EPD guideline "Recommended Pollution Control Clauses for Construction Contracts" to prevent contaminated surface runoff and other wastewater from being discharged into the river during construction stage of the project. A web link to the said guideline is shown below: http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html; 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.