

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LYT/756 and 757

<u>Applicants</u>	: (i) Mr. TANG Wong Sang (Application No. A/NE-LYT/756) (ii) Mr. TANG Shyh Ming (Application No. A/NE-LYT/757) Both with Mr. YIP Tin Sang as power of attorney
<u>Sites</u>	: (i) Lot 162 S.C. ss.1 (Application No. A/NE-LYT/756) (ii) Lot 162 S.C. ss.2 (Application No. A/NE-LYT/757) All in D.D. 46, Ma Mei Ha Tsuen, Fanling, New Territories
<u>Site Areas</u>	: (i) 183 m ² (about) (Application No. A/NE-LYT/756) (ii) 167.8 m ² (about) (Application No. A/NE-LYT/757)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/18
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) - Small House) on each of the application sites

1. The Proposals

1.1 The applicants, who claim themselves as indigenous villagers of Ma Mei Ha¹, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) which fall within the “AGR” zone of the OZP (**Plans A-1 and A-2a**). 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 requiring planning permission from the Town Planning Board (the Board).

1.2 Details of each 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

¹ According to District Lands Officer/North, Lands Department, the applicants’ eligibility for Small House concessionary grants has yet to be ascertained.

1.3 The uncovered area of the Sites would be used as garden. Layouts of the two proposed Small Houses (including septic tanks) under Applications No. A/NE-LYT/756 and 757 are shown on **Drawings A-1 and A-2** respectively.

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

- (a) Application Forms with attachments received on (**Appendices Ia and Ib**) 4.1.2022
- (b) Supplementary Information (SI) received on (**Appendices Ic and Id**) 12.1.2022

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in the Supplementary Information at **Appendices Ic to Id** and summarized as follows:

- (a) the applicants are indigenous villagers of Ma Mei Ha;
- (b) the Sites are located within “AGR” zone and have been vacant for years; and
- (c) the Sites are the only available land owned by their families for Small House development.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the “current land owners” of their respective lots. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Application

There is no previous application for the Sites.

6. Similar Applications

6.1 There are 18 similar applications involving 9 sites within / partly within the “AGR” zone to the north of the Sites in the Lung Yeuk Tau and Kwan Tei South area since the first promulgation of the Interim Criteria on 24.11.2000. All applications were approved with conditions by the Rural and New Town Planning Committee (RNTPC) of the Board in 2012 and 2017. Of them, 9 applications were approved by the Committee in January 2012 (i.e. before the adoption of a more cautious approach by the Board) mainly on the consideration that the applications generally complied with the Interim Criteria in

that more than 50% of the footprints of the proposed Small Houses fell within the village ‘environs’ (‘VE’) of Ma Mei Ha and there was a general shortage of land in meeting the Small House demand at the time of consideration. The remaining 9 applications (No. A/NE-LYT/617 to 623 and 633 to 634) were approved in April and September 2017 after the adoption of a more cautious approach by the Board mainly on sympathetic consideration as the application sites were subject to previously approved applications, although the land available within the “V” zone was capable of meeting the outstanding applications at the time of consideration.

- 6.2 Details of these applications are summarized at **Appendix III** and the locations of similar applications in the vicinity are shown on **Plan A-2a**.

7. The Sites and Their Surrounding Areas (Plans A-1, A-2a and A-2b, and UAV photo on Plan A-3)

- 7.1 The Sites are:

- (a) overgrown with grasses;
- (b) located to the west of the “V” zone of Ma Mei Ha; (**Plan A-1**); and
- (c) not accessible by vehicles.

- 7.2 The surrounding areas have the following characteristics:

- (a) a rural inland plain landscape character dominated by village houses, active/fallow agricultural land, vacant land and tree groups;
- (b) to the immediate north is a plant nursery and the site has been approved by the Committee in 2012 and 2017 for Small Houses. To the further north across Sha Tau Kok Road – Ma Mei Ha are village houses, active/fallow agricultural land, vacant land, a shop and a farm;
- (c) to the east and southeast across the local track are active/fallow agricultural land, a vehicle park and a pond. To the further east are the village proper of Ma Mei Ha; and
- (d) to the immediate south and southwest are existing storage use.

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

- 9.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	Criteria	Yes	No	Remarks
1.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - The Sites - Footprints of the proposed Small Houses 	<p>-</p> <p>-</p>	<p>100%</p> <p>100%</p>	<p>- The Sites and footprints of the proposed Small Houses fall within an area zoned “AGR”.</p>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - The Sites <ul style="list-style-type: none"> (i) Application No. A/NE-LYT/756 (ii) Application No. A/NE-LYT/757 - Footprints of the proposed Small Houses (Applications No. A/NE-LYT/756 and 757) 	<p>70.2%</p> <p>65.1%</p> <p>100%</p>	<p>29.8%</p> <p>34.9%</p> <p>-</p>	<p>District Lands Office/North, Lands Department (DLO/N, LandsD) advises that more than 50% of the Sites fall within the ‘VE’ of Ma Mei Ha.</p>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<p><u>Land Required</u></p> <p>Land required to meet the Small House demand in Lung Yeuk Tau village cluster: about 2.53 ha (equivalent to 101 Small House sites). The outstanding Small House applications for Ma Mei Ha are 19² while the 10-year Small House demand forecast for the same village is 82.</p>
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		<p><u>Land Available</u></p> <p>Land available to meet the Small House demand within the “V” zone of Ma Mei Ha: about 1.45 ha (equivalent to 58 Small House sites) (Plan A-2b).</p>
4.	Compatible with the planning intention of “AGR” zone?		✓	<p>The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Sites are currently abandoned land. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Sites possess potential for agricultural rehabilitation,</p>

² Among the 19 outstanding Small House applications, 14 of them fall within the “V” zone and 5 straddle or outside the “V” zone. For those 5 applications straddling or being outside the “V” zone, 2 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				the applications are not supported from agricultural point of view.
5.	Compatible with surrounding area/development?	✓		The proposed Small Houses are not incompatible with the surrounding rural inland plain landscape character comprising village houses, active/fallow agricultural land, vacant land and tree groups (Plan A-2a).
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 applications. The applicants are 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"> - Commissioner for Transport (C for T) has reservation on the applications and advises that Small House developments should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of developments 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 applications only involve construction of two Small Houses. She considers that the applications can be tolerated unless being rejected on other grounds.
10.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that an

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				approval condition on the submission and implementation of drainage proposal is required for the applications.
11.	Sewage impact?		✓	The Director of Environmental Protection (DEP) advises that in view of small scale of the proposed developments, the applications alone are unlikely to cause major pollution.
12.	Landscaping impact?		✓	The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from landscape planning perspective. Significant adverse impact on existing landscape resources arising from the proposed use is not anticipated. The proposed developments are considered not incompatible with the surrounding environment.
13.	Local objection conveyed by DO?	✓		District Officer (North), Home Affairs Department (DO(N), HAD) advises that he has consulted the locals. The Resident Representative (RR) of Ma Mei Ha objects to the applications on the grounds that the applicants are not indigenous villagers; the proposed developments would cause environmental pollution and adverse impacts to the agriculture nearby. The Chairman of Fanling District Rural Committee has no comment on the applications. The North District Council member of the subject constituency, the Chairman of Lung Shan Area Committee did not respond.

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

- (a) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CTP/UD&L, PlanD;
- (e) CE/MN, DSD;
- (f) DAFC;
- (g) D of FS
- (h) CE/C, WSD; and

- (i) DO(N), HAD.

10. Public Comments Received During Statutory Publication Period (Appendix V)

On 14.1.2022, the applications were published for public inspection. During the statutory public inspection period, three public comments were received for each application. While the Fanling District Rural Committee indicates no comment on the applications, the remaining two comments from two individuals raise objection to both applications mainly on the grounds that the proposed developments would cause environmental pollution; potential traffic congestion and fire risk; not in line with the vision of Northern Metropolis Development Strategy; and the Small House developments should be confined within “V” zone.

11. Planning Considerations and Assessments

- 11.1 The applications are for proposed Small House developments at the Sites falling within “AGR” zone on the OZP. The proposed Small House developments are not in line with the planning intention of the “AGR” zone which is intended to retain and safeguard good quality agricultural land / farm / fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. As the Sites possess potential for agricultural rehabilitation, DAFC does not support the applications from the agricultural development point of view.
- 11.2 The Sites, situated to the west of the “V” zone of Ma Mei Ha, are overgrown with grasses. The proposed Small Houses are not incompatible with the surrounding rural inland plain landscape character dominated by village houses, active/fallow agricultural land, vacant land and cluster of tree groups. Significant landscape impact on existing landscape resources arising from the applications is not anticipated. CTP/UD&L, PlanD has no objection to the applications from landscape planning perspective. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed developments involve only two Small Houses, the applications could be tolerated. Other relevant government departments, including DEP, CE/MN of DSD, D of FS and CE/C, WSD, have no adverse comment on/no objection to the applications.
- 11.3 Regarding the Interim Criteria, the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Ma Mei Ha. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Ma Mei Ha is 19 while the 10-year Small House demand forecast for the same village is 82. According to PlanD’s latest estimate, about 1.45 ha (equivalent to 58 Small House sites) of land are available in the “V” zone of Ma Mei Ha for Small House development. While land available within the “V” zone is insufficient to fully meet the future Small House demand of 101 Small Houses, such available land (about 1.45 ha or equivalent to 58 Small House sites) is capable of meeting the 19 outstanding Small House applications (**Plan A-2b**). It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in 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 developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- 11.4 As shown on **Plan A-2a**, all the 18 similar applications involving 9 sites for Small House developments to the north of the Sites were approved by the Committee. Of

them, 9 applications were approved in 2012 before the adoption of a more cautious approach by the Board mainly for reasons that the applications generally complied with the Interim Criteria at the time of consideration. After the adoption of a more cautious approach, 9 applications (No. A/NE-LYT/617 to 623 and 633 and 634) were approved by the Committee in 2017 mainly on sympathetic consideration as these application sites were subject to previously approved applications, despite the land available within the “V” zone was able to meet the outstanding applications at the time of consideration. It is considered that the planning circumstances of the current applications are different from those applications approved after the adoption of a more cautious approach.

- 11.5 Regarding the public comments in paragraph 10, the 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 local views conveyed by the DO(N) of HAD in paragraph 9 and public comments mentioned in paragraph 10, the Planning Department does not support the applications for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes 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) land is still available within the “V” zone of Ma Mei Ha where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.2 Alternatively, should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 4.3.2026, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The following condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

The submission and implementation of a 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 applications and decide whether to grant or refuse to grant the permissions.

- 13.2 Should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.
- 13.3 Alternatively, should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the date when the validity of the permissions should expire.

14. Attachments

Appendices Ia to Ib	Application Forms with attachments received on 4.1.2022
Appendices Ic to Id	Supplementary Information received on 12.1.2022
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 (New Territories Exempted House (NTEH) - Small House) within/partly within the “AGR” Zone in the vicinity of the Sites in the Lung Yeuk Tau and Kwan Tei South area
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawings A-1 to A-2	Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Ma Mei Ha for Small House Development
Plan A-3	Aerial Photo
Plan A-4	UAV Photo

**PLANNING DEPARTMENT
MARCH 2022**