

RNTPC Paper No. A/NE-LYT/778 to 780  
for Consideration by the  
Rural and New Town Planning  
Committee on 23.12.2022

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

**APPLICATIONS NO. A/NE-LYT/778 to 780**

<b><u>Applicants</u></b>	: Mr PANG Ming Kai Mr PANG Kwok Wai Mr PANG David Kai On	(Application No. A/NE-LYT/778) (Application No. A/NE-LYT/779) (Application No. A/NE-LYT/780)
	all with Mr YIP Tin Sang as power of attorney	
<b><u>Sites</u></b>	Lot 1773 S.B ss.1 in D.D.76 Lot 1773 S.B ss.2 in D.D.76 Lot 1773 S.B ss.4 in D.D.76	(Application No. A/NE-LYT/778) (Application No. A/NE-LYT/779) (Application No. A/NE-LYT/780)
	all in Leng Tsui Tsuen, Fanling, New Territories	
<b><u>Site Areas</u></b>	: 139.1m <sup>2</sup> (about) 161.8m <sup>2</sup> (about) 151.1m <sup>2</sup> (about)	(Application No. A/NE-LYT/778) (Application No. A/NE-LYT/779) (Application No. A/NE-LYT/780)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)	
<b><u>Plan</u></b>	: Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19	
<b><u>Zonings</u></b>	: “Agriculture” (“AGR”) “AGR” (about 98% of the site) “Village Type Development” (“V”) (about 2% of the site)	(Applications No. A/NE-LYT/778&779)  (Application No. A/NE-LYT/780)
<b><u>Applications</u></b>	: Proposed House (New Territories Exempted House (NTEH) - Small House) at each of the application sites	

**1. The Proposals**

- 1.1 The applicants, who claimed themselves as indigenous villagers of Fanling Heung<sup>1</sup>, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Leng Tsui Tsuen. Lung Yeuk Tau. The sites for Applications No. A/NE-LYT/778 and 779 fall wholly within “AGR” zone, whereas the site for Application No. A/NE-LYT/5780 falls mainly within area zoned “AGR” (about 98%) with a minor portion zoned “V” (about 2%) on the OZP (**Plan A-1**). According to the

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

Notes of the OZP, while ‘House (NTEH only)’ is always permitted in the “V” zone, such use in the “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the three proposed NTEHs (Small House) are as follows:

Total Floor Area	: 195.09m <sup>2</sup>
Number of Storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m <sup>2</sup>

The applicants indicate that the uncovered area of the Sites would be used as garden and circulation area and landscape proposal had been submitted and accepted by the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) under application No. A/NE-LYT/659 to 661. The layouts of the proposed Small Houses are shown on **Drawings A-1 to A-3**.

1.3 Each of the Sites is the subject of two previously approved applications submitted by the same applicants under the current application for the same use, and their approved applications with the respective approval dates are listed below:

<u>Current Application</u>	<u>Previous Applications</u>	<u>Date of Approval</u>
No. A/NE-LYT/778	No. A/NE-LYT/535	4.4.2014
	No. A/NE-LYT/659	15.6.2018
No. A/NE-LYT/779	No. A/NE-LYT/536	4.4.2014
	No. A/NE-LYT/660	15.6.2018
No. A/NE-LYT/780	No. A/NE-LYT/537	4.4.2014
	No. A/NE-LYT/661	15.6.2018

Details of the previous applications are set out in paragraph 5.1 below. Compared with previous applications, the major development parameters and layouts of the Small Houses are generally the same as the current ones.

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

- (a) Application Forms with attachments received on 3.11.2022 (**Appendices Ia to Ic**)
- (b) Further Information received on 5.12.2022 (**Appendix Id**).

## 2. Justifications from the Applicants

The justification put forth by the applicants in support of the applications is detailed in Part 8 of the Application Forms at **Appendices Ia, Ib and Ic** and summarized below:

- the Sites are the subject of previously approved planning applications (No. A/NE-LYT/535 to 537) and Lands Department (LandsD) still has not finished processing the Small House applications, so fresh applications are submitted.

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

The applicants are the sole “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 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 Applications**

- 5.1 Each of the Sites is the subject of two previously approved applications (No. A/NE-LYT/535 to 537 and No. A/NE-LYT/659 to 661) submitted by the same applicant as the current application for the same use but the latest planning permissions lapsed on 15.6.2022. Each of the Sites was first approved with conditions by the Committee in 2014 (No. A/NE-LYT/535 to 537) mainly on sympathetic consideration of being in line with the Interim Criteria in that the footprints of the Small Houses fell entirely within the village ‘environ’ (‘VE’) of Ma Mei Ha Leng Tsui and Leng Pei Tsuen, and there was a general shortage of land in “V” zone to meet the Small House demand at the time of consideration. As planning permissions lapsed on 5.4.2018, the same applicants submitted fresh planning applications for the same use (No. A/NE-LYT/659 to 661) which were approved with conditions by the Committee on 15.6.2018 on the same sympathetic consideration as the previous approvals.
- 5.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

### **6. Similar Applications**

- 6.1 There are 53 similar applications for Small House development within/partly within the “AGR” zone in the close vicinity 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.
- 6.2 All similar applications were approved with conditions by the Committee between 2003 and 2022. These applications were approved mainly on consideration that the applications complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand; the proposed Small House developments were not incompatible with the surrounding rural and village environment; the proposed developments were not expected to have significant adverse impacts on the surrounding areas; and similar applications had been approved by the Committee.
- 6.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

- 6.4 For Members' information, applications No. A/NE-LYT/781 to 786 for proposed houses (NTEHs – Small Houses) to the northwest of the Sites (**Plan A-2a**) will be considered by the Committee in the same meeting.

## **7. The Sites and Its Surrounding Areas (Plans A-1 to A-4)**

- 7.1 The Sites are:

- (a) flat and mostly covered with grass and partly paved;
- (b) part of the Sites of applications No. A/NE-LYT/778 and 780 encroaches onto a track and footpath respectively; and
- (c) located close to the village proper of Mai Mei Ha Leng Tsui.

- 7.2 The surrounding areas have the following characteristics:

- (a) rural landscape character dominated by village houses, temporary structures, vacant land and active/fallow agricultural land;
- (b) to the north and south are village houses/village houses under construction, and vacant land with Small House/NTEH applications approved by the Committee (**Plan A-2a**);
- (c) to the east is the existing village proper of Ma Mei Ha Leng Tsui; and
- (d) to the further southwest is a site zoned “Government, Institution or Community” and used as ‘Life Building Centre’ (生命導向中心).

## **8. Planning Intentions**

- 8.1 The planning intention of the “AGR” zone in Lung Yeuk Tau and Kwan Tei South area is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 The planning intention of the “V” zone in the Lung Yeuk Tau and Kwan Tei South area is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

## **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:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> <li>- The Sites (Application No. A/NE-LYT/778)</li> <li>(Application No. A/NE-LYT/779)</li> <li>(Application No. A/NE-LYT/780)</li> <li>- Footprints of the proposed Small Houses</li> </ul>	<p>-</p> <p>-</p> <p>2%</p> <p>-</p>	<p>100%</p> <p>100%</p> <p>98%</p> <p>100%</p>	<p>The Sites of applications No. A/NE-LYT/778 and 779 fall entirely within “AGR” zone whereas the Site of Application No. A/NE-LYT/780 falls mostly within “AGR” zone with minor portion zoned “V”.</p>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- The Sites</li> <li>- Footprints of the proposed Small Houses</li> </ul>	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<p>District Lands Office/North, Lands Department (DLO/N, LandsD) advises that the Sites and the proposed Small House footprints fall entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.</p>
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p> <p>Sufficient land in “V” zone to meet outstanding Small House application?</p>		<p>✓</p> <p>✓</p>	<p><b><u>Land Required</u></b></p> <ul style="list-style-type: none"> <li>- Land required to meet the Small House demand in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 4.53 ha (equivalent to 181 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster are 49<sup>2</sup> while the 10-year Small House demand forecast for the same village cluster is 132.</li> </ul> <p><b><u>Land Available</u></b></p> <ul style="list-style-type: none"> <li>- Land available to meet the Small House demand within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 0.67 ha (equivalent to 26 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	Compatible with the planning intention of		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support

<sup>2</sup> Among the 49 outstanding Small House applications, seven of them fall within the “V” zone and 42 straddle or outside the “V” zone. For those 42 applications straddling or being outside the “V” zone, 21 of them have obtained valid planning approvals from the Board.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
	“AGR” zone?			the applications as the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The proposed Small Houses are not incompatible with the surrounding rural setting and environment dominated by village houses and active/fallow agricultural land ( <b>Plan A-2a</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	Director of Fire Services (D of FS) has no in-principle objection to the applications.
9.	Traffic impact?	✓		Commissioner for Transport (C for T) advises that Small House developments should be confined within the “V” zone as far as possible. Notwithstanding the above, each application involving the construction of one Small House can be tolerated.
10.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewage impact?		✓	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?		✓	CTP/UD&L, PlanD has no objection to the applications from landscape planning point of view. Significant adverse impact on existing landscape resources is not anticipated. An

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				approval condition on the implementation of the accepted landscape proposal is recommended.
13.	Local objection conveyed by DO?	✓		District Officer (North), Home Affairs Department (DO(N), HAD) advises that she has consulted the locals. The Chairman of Lung Shan Area Committee has no comment on the applications while the Chairman, 1 <sup>st</sup> Vice-chairman and Vice-chairman of Fanling District Rural Committee (FDRC) and the Resident Representative of Leng Tsui object to the applications.

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

- (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; and
- (h) DO(N), HAD.

9.3 The following government departments have no objection to/no comment on the applications:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) Project Manager/North, North Development Office, Civil Engineering and Development Department.

## 10. **Public Comments Received During Statutory Publication Period**

On 11.11.2022, the applications were published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix VI**) from a North District Council member, Fanling District Rural Committee and individuals to all the three applications. The North District Council member indicates no comment on the applications, while Fanling District Rural Committee and two individuals object to the applications on the grounds that the applicants are cross-villagers, living environment is already very dense and the proposed applications would induce adverse impacts in terms of traffic, environment, drainage, ecology, fire risk, resident's safety and living quality.

## 11. Planning Considerations and Assessments

- 11.1 These applications are for a proposed Small House at each of the Sites. The Sites of applications No. A/NE-LYT/778 and 779 fall entirely within “AGR” zone whereas the Site of application No. A/NE-LYT/780 falls within an area mostly zoned “AGR” with minor portion zoned “V” on the OZP. The proposed developments are not in line with the planning intention of the “AGR” zone as set out in paragraph 8.1 above. DAFC does not support the applications from the agricultural development point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 The Sites are flat, mostly covered with grass and partly paved (**Plans A-2a**). The village proper of Ma Mei Ha Leng Tsui is located to the east and there are approved Small House applications in the vicinity of the Sites. The proposed Small Houses are not incompatible with the surrounding rural setting dominated by village houses, temporary structures, active/fallow agricultural land, tree groups and vacant land. As significant adverse landscape impact arising from the proposed developments is not anticipated, CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that each application involving one Small House only, the applications could be tolerated from traffic impact perspective. Other relevant government departments consulted, including DEP, CE/C, WSD, CE/MN of DSD and D of FS, have no objection to or no comment on the applications. Approval conditions are suggested in paragraph 12.2 below to address the requirements of relevant departments.
- 11.3 Regarding the Interim Criteria (**Appendix II**), each proposed Small House footprint falls entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen. DLO/N of LandsD advises that the number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 49 while the 10-year Small House demand forecast is 132. Based on PlanD’s latest estimate, about 0.67 ha (equivalent to 26 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). In this regard, there is insufficient land within the “V” zone to meet the 49 outstanding Small House applications. As such, the applications generally comply with the Interim Criteria as the footprints of the Small House fall entirely within the ‘VE’ and there is a general shortage of land within the “V” zone in meeting the Small House demand. It is also noted that there are new Small Houses under construction and approved Small House applications at different stages of development nearby, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**). Besides, each of the Sites is the subject of two previously approved applications submitted by the same applicant for the same use. Compared with the previous applications, the major development parameters and footprints of the proposed Small houses under the current applications are generally the same. In this regard, sympathetic consideration might be given to the applications.
- 11.4 There are 53 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**). Among them, 26 applications were approved by the Committee between November 2015 and August 2022 after the Board’s formal adoption of a more cautious approach mainly on consideration that there was a shortage of land within the “V” zone of the same village and/or the site is the subject of previous approvals. The planning circumstances of the current application are similar to those of approved applications.
- 11.5 Regarding the local objections conveyed by DO(N) of HAD in paragraph 9.1 and 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 public comments mentioned in paragraph 10, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 23.12.2026, and after the said date, the permissions shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

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

- 12.3 Alternatively, should the Committee decide to reject the applications, the following reason for rejection is suggested for Members' reference:
- the proposed development is not in line with the planning intention of the "AGR" zone 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.

## **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 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.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

## **14. Attachments**

<b>Appendices Ia to Ic</b>	Application Forms with Attachments received on 3.11.2022
<b>Appendix Id</b>	Further Information received on 3.12.2022
<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>	Previous Applications

<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comments
<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawings A-1 to A-3</b>	Proposed Layout Plans
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available for Small House Development within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4c</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2022**