

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

**APPLICATIONS NO. A/NE-LYT/796 to 798**

**Applicants** : Mr NG Sun Ping (Application No. A/NE-LYT/796)  
Mr NG Man Fung (Application No. A/NE-LYT/797)  
Mr NG Man Ho (Application No. A/NE-LYT/798)

all with Mr TSANG Lim Cho as the Power of Attorney and  
represented by Euro Asia Construction Engineering Limited

**Sites** : Lot 1526 S.B (Application No. A/NE-LYT/796)  
Lot 1526 S.C (Application No. A/NE-LYT/797)  
Lot 1526 S.D (Application No. A/NE-LYT/798)

all in D.D. 76, Kan Tau Tsuen, Fanling, New Territories

**Site Areas** : 238.6m<sup>2</sup> (about) (Application No. A/NE-LYT/796)  
148.2m<sup>2</sup> (about) (Application No. A/NE-LYT/797)  
277.0m<sup>2</sup> (about) (Application No. A/NE-LYT/798)

**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/19

**Zoning** : “Agriculture” (“AGR”)

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

**1. The Proposals**

1.1 The applicants, who claim themselves as indigenous villagers of Kan Tau Tsuen<sup>1</sup>, seek planning permissions to build a proposed NTEH (Small House) on each of the application sites (the Sites) in Kan Tau Tsuen, Fanling (**Plans A-1 and A-2a**). The Sites fall within an area zoned “AGR” on the OZP. According to the Notes of the OZP, House (NTEH only) 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 Houses) are as follows:

Total Floor Area : 195.09m<sup>2</sup>

---

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

Number of Storeys	:	3
Building Height	:	8.23m
Roofed over Area	:	65.03m <sup>2</sup>

The applicants indicate that the uncovered areas of their Sites would be used as landscaping areas. The layouts of the proposed Small Houses (including septic tanks) are shown on **Drawings A-1 to A-3**.

- 1.3 Each of the Sites is the subject of a previously approved application submitted by the same applicant under the current application for the same use. Details of the previous applications are set out in paragraph 5.1 below. Compared with the 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 application forms with attachments received on 14.6.2023 (**Appendices Ia to Ic**).

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed in part 8 of the Application Forms at **Appendices Ia to Ic** and summarized as follows:

- (a) the Sites are the subject of previously approved planning applications (No. A/NE-LYT/650 to 652). The Small House applications are still being processed by LandsD. As the previous planning permissions covering the Sites lapsed on 2.6.2022, fresh applications are therefore required;
- (b) the applicants are indigenous villagers and majority of the proposed houses fall within the village ‘environs’ (‘VE’) of Kan Tau Tsuen. The applications are in line with the Small House Policy;
- (c) there are approved Small House applications in close proximity to the Sites. The proposed Small House developments are compatible with the surrounding land use and would not create significant adverse impacts on the surroundings.
- (d) the Sites are bounded by village settlements to its east and ‘VE’ to its west. It would be a natural extension to accommodate Small Houses on the Sites; and
- (e) the Sites are the only available land for the Small House development.

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

The applicants are the sole “current land owner” 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 Applications

- 5.1 Each of the Sites for application No. A/NE-LYT/796 to 798 is the subject of a previously approved application (No. A/NE-LYT/650 to 652) respectively submitted by the same applicant for the same use. They were approved by the Committee on 1.6.2018 mainly on sympathetic consideration of being in line with the Interim Criteria in that more than 50% of the footprints of proposed Small Houses fell within the 'VE' of Kan Tau Tsuen; the Sites were in close proximity to the existing village proper of Kan Tau Tsuen; there were approved Small House applications nearby; and concerned government departments had no objection to the applications. Relevant planning permissions lapsed on 2.6.2022.
- 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 have been 23 similar applications for Small House development within/partly within the same "AGR" zone in the 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 Among them, 20 applications were approved by the Committee between May 2002 and January 2011 before the formal adoption of a more cautious approach<sup>2</sup> by the Board since August 2015 mainly on considerations 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 "Village Type Development" ("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 would not have significant adverse traffic, drainage, environmental and/or landscape impacts on the surrounding areas; and similar applications were approved by the Committee. One application (No. A/NE-LYT/670) was approved by the Committee in July 2018 after the formal adaption of a more cautious approach<sup>2</sup> by the Board mainly on sympathetic consideration that the proposed Small House was in close proximity to the "V" zone of Kan Tau Tsuen and there were existing and approved Small Houses forming new village clusters in the locality.
- 6.3 Two applications (No. A/NE-LYT 432 and 446) involving the same site were rejected by the Committee in 2011 mainly on the grounds that the proposed Small House developments did not comply with the Interim Criteria as the footprints of the proposed Small Houses fell entirely outside the 'VE' and "V" zone of Kan Tau Tsuen and would partially block an existing road; and approval of the application which did not comply with the Interim Criteria for assessing NTEH/Small House might set an undesirable precedent for other similar applications in the "AGR" zone.
- 6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

- 7.1 The Sites are:

---

<sup>2</sup> Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting should be put on the number of outstanding Small House applications provided by LandsD.

- (a) located to the west of the “V” zone of Kan Tau Tsuen;
- (b) flat and covered with grass except for part of application site No. A/NE-LYT/798 which is hard paved; and
- (c) accessible by a vehicular access.

7.2 The surrounding areas are in rural landscape character dominated by village houses, clusters of tree groups and temporary structures.

## 8. **Planning Intention**

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.

## 9. **Comments from Relevant Government Departments**

9.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarised 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.	Within “V” zone?  - The Sites  - Footprints of the proposed Small Houses	-  -	100%  100%	The Sites and footprints of the proposed Small Houses fall entirely within “AGR” zone.
2.	Within ‘VE’?  - The Sites (Application No. A/NE-LYT/796)  (Application No. A/NE-LYT/797)  (Application No. A/NE-LYT/798)  - Footprints of the proposed Small Houses  (Application No. A/NE-LYT/796)	35.2%  58.1%  44.2%   61.6%	64.8%  41.9%  55.8%   38.4%	DLO/N, LandsD advises that majority portion of the proposed Small Houses footprints fall within the ‘VE’ of Kan Tau Tsuen.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
	(Application No. A/NE-LYT/797)	78.7%	21.3%	
	(Application No. A/NE-LYT/798)	95.1%	4.9%	
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u><b>Land Required</b></u> <ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Kan Tau Tsuen: about 4.4 ha (equivalent to 176 Small House sites). The outstanding Small House applications for Kan Tau Tsuen village cluster are 46<sup>3</sup> while the 10-year Small House demand forecast for the same village cluster is 130.</li> </ul>
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		<u><b>Land Available</b></u> <ul style="list-style-type: none"> <li>- Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen village cluster: about 1.87 ha (equivalent to 74 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from an agricultural perspective as the Sites possess potential for agricultural rehabilitation. 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.
5.	Compatible with surrounding area/ development?	✓		The proposed Small Houses are not incompatible with the surrounding landscape character dominated by village houses, clusters of tree and temporary structures ( <b>Plan A-2a</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	

<sup>3</sup> Among the 46 outstanding Small House applications, 14 of them fall within the “V” zone and 32 straddle or outside the “V” zone. For those 32 applications straddling or being outside the “V” zone, 14 of them have obtained valid planning approvals from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
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?	✓		Commissioner for Transport (C for T) 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 future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, each application involving the construction of one Small House could 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.	Sewerage impact?		✓	The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.
12.	Landscaping impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from landscape planning point of view. Significant adverse impact on the landscape character and the existing landscape resources is not anticipated.
13.	Local objections conveyed by DO?	✓		District Officer (North) (DO(N)) advises that he has consulted the locals. The Chairman, 1 <sup>st</sup> Vice-Chairman and Vice-Chairman of Fanling District Rural Committee, the Chairman of Lung Shan Area Committee, the Indigenous Inhabitant Representative and the Resident Representative of Kan Tau Tsuen object to

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				the applications mainly on the grounds of not being in line with the planning intention of “AGR” zone; applicants are not the indigenous villagers; and proposed development would cause traffic and drainage impacts on the surrounding areas. The incumbent North District Councilor of N18 Constituency did not replied him.

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 V**.

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

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

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

## **10. Public Comments Received During Statutory Publication Period (Appendix VI)**

On 23.6.2023, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, each application received seven public comments. The Chairman of Sheung Shui District Rural Committee indicates no comment on the applications. The remaining six public comments from the Chairman, First Vice-Chairman, Vice-Chairman of Fanling District Rural Committee and three individuals raise objection to all applications mainly on the grounds that the applicants are not indigenous villagers; the proposed developments would cause traffic and sewerage impacts on the surroundings.

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

11.1 The applications are for a proposed Small House on each of the Sites, which fall entirely within “AGR” zone on the OZP. The proposed developments are not in line with the planning intention of the “AGR” zone as set out in paragraph 8 above. DAFC does not support the application from agricultural perspective as the Sites possess potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are also available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries,

etc.

- 11.2 The Sites are situated in an area of rural landscape predominated by village houses, clusters of tree groups and vegetated area. The proposed Small Houses are not incompatible with the surrounding areas. As significant adverse landscape impact arising from the proposed developments is not anticipated, CTP/UD&L, PlanD has no objection to the applications from 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 involves construction of a Small Houses only, the applications could be tolerated from traffic impact perspective. Although DLO/N indicates that the balconies orientation, septic tank and soakage pit locations and house configuration are different from those in the Small House applications currently processed, such discrepancies could be dealt with in later stage of processing Small House grant. 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.
- 11.3 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen (**Plan A-2a**). DLO/N of LandsD advises that the number of outstanding Small House applications for Kan Tau Tsuen village cluster is 46 while the 10-year Small House demand forecast is 130. Based on PlanD’s latest estimate, about 1.87 ha (equivalent to 74 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While the amount of land available within the “V” zone of Kan Tau Tsuen is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House developments within the “V” zones for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, each of the Sites is the subject of a previously approved application (No. A/NE-LYT/650 to 652) 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. DLO/N advises that the Small House applications are still under processing. In this regard, sympathetic consideration may be given to the applications.
- 11.4 There are 23 similar applications for Small House developments in the vicinity of the Sites (**Plan A-2a**). Among them, one application (No. A/NE-LYT/670) was approved by the Committee in 2018 after the formal adoption of a more cautious approach by the Board mainly on sympathetic consideration that the proposed Small House was in close proximity to the “V” zone of Kan Tau Tsuen and there were existing and approved Small Houses forming new village clusters in the locality.
- 11.5 Regarding the local comments conveyed by DO(N) of HAD and public comments on the application as detailed in paragraphs 9.1 and 10 respectively, 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



comments conveyed by DO(N) of HAD and public comments as detailed in paragraphs 9.1 and 10 respectively, the Planning Department has no objection to the applications.

- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 11.8.2027, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted commences or the permission is 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 VII**.

- 12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members' 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) land is still available within the "V" zone of Kan Tau Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

**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**

**Appendices Ia to Ic**      Application Forms with attachments received on 14.6.2023

<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 Small Houses 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 Kan Tau Tsuen
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT**  
**AUGUST 2023**