

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

**APPLICATIONS NO. A/NE-LYT/817 and 818**

<b><u>Applicants</u></b>	: Mr TANG Khai Yean Mr SUNG Yan Keung John	(Application No. A/NE-LYT/817) (Application No. A/NE-LYT/818)
	all represented by Asia Tact Planning & Consultant Co. Limited	
<b><u>Sites</u></b>	: Lot 1757 S.A Lot 1760 S.D	(Application No. A/NE-LYT/817) (Application No. A/NE-LYT/818)
	all in D.D. 76, Ma Mei Ha Leng Tsui, Fanling, New Territories	
<b><u>Site Areas</u></b>	: 154.8m <sup>2</sup> (about) 195.2m <sup>2</sup> (about)	(Application No. A/NE-LYT/817) (Application No. A/NE-LYT/818)
<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>Zoning</u></b>	: “Agriculture” (“AGR”)	
<b><u>Applications</u></b>	: Proposed House (New Territories Exempted House (NTEH) – Small House)	

**1. The Proposals**

1.1 The applicants, who claim themselves as indigenous villagers of Hok Tau Wai (Application No. A/NE-LYT/817) and Wo Hop Shek (Application No. A/NE-LYT/818) respectively<sup>1</sup>, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Ma Mei Ha Leng Tsui, Fanling (**Plan A-1**). Both Sites fall entirely within “AGR” zone on the OZP. According to the Notes of the OZP, ‘House (NTEH only)’ within the “AGR” zone is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The Sites are vacant and partly covered with grass.

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

Total Floor Area	: 195.09m <sup>2</sup>
Number of Storeys	: 3

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the eligibility of the applicants of both applications for Small House concessionary grant are yet to be ascertained.

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 for garden use. The layouts of the proposed Small Houses under applications No. A/NE-LYT/817 and 818 are shown in **Drawings A-1 to A-2** respectively.

- 1.3 Each of the Sites is the subject of previously approved application(s) submitted by the same applicant as the current one for the same use. Details of the previous applications are set out in paragraphs 5.1 to 5.4 below. Compared with the previous applications, the major development parameters and layouts of the Small Houses are generally the same.
- 1.4 In support of the applications, the applicants have submitted Application Forms with attachments received on 7.12.2023 (**Appendices Ia and Ib**).

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

The justifications put forth by the applicants in support of the applications are detailed at **Appendices Ia to Ib**, and summarized as follows:

- (a) the applicants are indigenous villagers entitled to Small House concessionary grants in accordance with the Small House policy;
- (b) each of the Sites is the subject of previously approved planning application(s) (No. A/NE-LYT/520 for No. A/NE-LYT/817 and No. A/NE-LYT/539 and 663 for No. A/NE-LYT/818). As the indigenous villager status of the applicants is yet to be concluded by DLO/N, LandsD, the applicants were advised to obtain planning permissions prior to further processing of the Small House applications by DLO/N;
- (c) as the Sites are currently not used for cultivation purposes, hence the proposed developments would not frustrate the planning intention of the “AGR” zone;
- (d) the proposed developments would not cause adverse traffic, environmental, drainage and geotechnical impacts on the surrounding areas; and
- (e) the proposed developments are considered not incompatible with the surrounding areas.

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

The applicants are the sole “current land owners” of the respective lots at the Sites. 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 applications No. A/NE-LYT/817 and 818 is the subject of previously approved application(s) for the same use.
- 5.2 Application No. A/NE-LYT/817 is the subject of a previously approved application No. A/NE-LYT/520 submitted by the same applicant as the current one approved by the Rural and New Town Planning Committee (the Committee) on 22.11.2013 mainly on sympathetic consideration of being in line with the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell within the village ‘environs’ (‘VE’) of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and there was a general shortage of land within the “Village Type Development” (“V”) zone of the same village cluster to meet the Small House demand at the time of consideration; the Site was in close proximity to the existing village houses, Small Houses under construction and approved Small House application sites; and concerned government departments had no objection to the application. Relevant planning permission lapsed on 23.11.2021<sup>2</sup>.
- 5.3 Application No. A/NE-LYT/818 is the subject of two previous applications No. A/NE-LYT/539 and 663 submitted by the same applicant as the current one approved by the Committee on 25.4.2014 and 15.6.2018 respectively mainly on the same considerations as application No. A/NE-LYT/520. Relevant planning permissions lapsed on 26.4.2018 and 16.6.2022 respectively<sup>2</sup>.
- 5.4 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-2a**.

## 6. Similar Applications

- 6.1 There have been 66 similar applications for Small House development within/partly within the same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei area since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Among the 66 applications, 26 were approved by the Committee between April 2006 and May 2015 before the formal adoption of a more cautious approach by the Board since August 2015<sup>3</sup>. 40 applications were approved by the Committee thereafter mainly on considerations 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 ‘VE’ and there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand at the time of consideration; the Sites were the subject of previous approvals and/or there were Small House applications approved in the vicinity at different stages of development nearby which formed a new village cluster in the locality; the applications were not incompatible with the surrounding rural and village environment; and would not induce significant adverse impact on the surrounding areas.
- 6.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

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<sup>2</sup> According to DLO/N of LandsD, the subject Small House applications are still under processing.

<sup>3</sup> Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

## 7. The Sites and Their Surrounding Areas (Plans A-2a to A-4c)

7.1 The Sites are:

- (a) vacant and paved;
- (b) not accessible by vehicular access; and
- (c) located close to the village proper of Ma Mei Ha Leng Tsui (**Plan A-2a**).

7.2 The surrounding areas are of rural landscape character comprising village houses, temporary structures, parking of vehicles, tree clusters, vegetated areas and vacant land.

## 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 applications have been assessed against the assessment criteria at **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 Sites  - Footprints of the proposed Small Houses		100%  100%	The Sites fall entirely within “AGR” zone.
2.	Within ‘VE’?  - The Sites  - Footprints of the proposed Small Houses	100%  100%	-  -	DLO/N, LandsD advises that the Sites and the footprints of the proposed Small Houses fall within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Ma Mei Ha Leng Tsui and Leng Pei village cluster: about 4.2 ha (equivalent to 168 Small House sites). The number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei is 36 <sup>4</sup> while the 10-year Small House demand forecast for the same village cluster is 132.
	Sufficient land in “V” zone to meet outstanding Small House applications?		✓	<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei: about 0.64 ha (equivalent to 25 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the 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.
5.	Compatible with surrounding area/ development?	✓		The proposed Small Houses are not incompatible with the surrounding rural landscape character comprising village houses, temporary structure, tree clusters, vegetated areas and vacant land ( <b>Plan A-2a</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	

<sup>4</sup> Among the 36 outstanding Small House applications, six fall within the “V” zone, and 30 straddle or fall outside the “V” zone. For those 30 applications straddling or falling outside the “V” zone, 18 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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?	✓		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 the future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, each application only involving the construction of one Small House on each Site could be tolerated.
10.	Drainage impact?		✓	Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications.
11.	Sewerage impact?		✓	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 the landscape planning perspective. Significant adverse impact on the landscape character and the existing landscape resources within the Sites arising from the proposed developments is not anticipated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by DO?	✓		District Officer (North), Home Affairs Department (DO(N), HAD) advises that he has consulted the locals. The Chairman, the First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee object to the applications on the grounds that the applications would induce adverse drainage and traffic impacts on the surrounding areas and there should be sufficient land within the “V” zone for construction of Small Houses. The Chairman of Lung Shan Area Committee has no comment on the applications while the Indigenous Inhabitant Representative and the Resident Representative of Leng Tsui and Leng Pei Tsuen have not replied.

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) DLO/N, LandsD;
- (b) CE/MN, DSD;
- (c) DEP;
- (d) DAFC;
- (e) CTP/UD&L, PlanD;
- (f) D of FS;
- (g) C for T;
- (h) DO(N), HAD; and
- (i) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD)

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C,WSD); and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

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

On 15.12.2023, the applications were published for public inspection. During the first three weeks of statutory public inspection period, four public comments were received for the applications. The Chairman of Sheung Shui District Rural Committee indicates no comment on both applications. The Chairman, the First Vice-Chairman, the Vice-Chairman of Fanling District Rural Committee raise objection to both applications mainly on the grounds that there

should be sufficient land within the “V” zone for construction of Small Houses and the applications would induce adverse drainage impacts on the surrounding areas.

## **11. Planning Considerations and Assessment**

- 11.1 The applications are for a proposed Small House at each Site. Both Sites 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 applications from the agricultural perspective as the Site possesses 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 Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc. Nevertheless, taking account of the justifications from the applicants as set out in paragraph 2 above and the planning considerations/assessment in paragraph 11.2 to 11.5 below, sympathetic consideration could be given to the applications.
- 11.2 Both Sites are vacant and paved (**Plans A-2a and A-4a to A-4c**). The village proper of Ma Mei Ha Leng Tsui and Leng Pei Tsuen 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 comprising village houses, temporary structures, parking of vehicles, tree clusters, vegetated areas and vacant land. As significant adverse impact on the landscape character and the existing landscape resources within the Sites arising from the proposed developments is not anticipated, CTP/UD&L, PlanD has no objection to the applications from the 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 each application only involves development of one Small House on each Site, the applications could be tolerated from traffic impact perspective. Other relevant government departments consulted, including DEP, CE/C of 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**), the footprints of the proposed Small Houses fall 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 village cluster is 36 while the 10-year Small House demand forecast is 132. Based on PlanD’s latest estimate, about 0.64 ha (equivalent to 25 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 36 outstanding Small House applications. As such, the applications generally comply with the Interim Criteria as the footprints of the Small Houses fall entirely within the ‘VE’ and there is a general shortage of land within the “V” zone in meeting the Small House demand (solely the number of outstanding Small House applications). Moreover, each of the Sites is the subject of previously approved application(s) submitted by the same applicant under the current application for the same use as set out in paragraphs 5.1 to 5.4 above. Compared with the previous applications, the major development parameters and layouts of the Small Houses are generally the same. DLO/N advises that both Small House applications are still under processing. In this regard, sympathetic consideration might be given to the applications.
- 11.4 There have been 66 similar applications for Small House developments in the vicinity of



the Site (**Plan A-2a**). Among them, 40 applications were approved by the Committee between November 2015 and November 2023 after the Board's formal adoption of a more cautious approach mainly on considerations as detailed in paragraph 6.2. The planning circumstances of the current applications are similar to those approved applications (e.g. A/NE-LYT/740, 753, 765, 778-780, 783-786, 793, 810) in that there is a general shortage of land within "V" zone in meeting the Small House demand and there are Small House applications approved in the vicinity; the implementation of which are forming a new village cluster in the locality and the sites are the subject of previous approvals, etc.

- 11.5 Regarding the local objections conveyed by DO(N) of HAD in paragraph 9.1 and the public comments in paragraph 10, 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 objection 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 the permissions shall be valid until 26.1.2028, 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 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 permission, 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 Ib  
Appendix II**

Application Forms with attachments received on 7.12.2023  
Relevant Interim Criteria for Consideration of Application for  
New Territories Exempted House (NTEH)/Small House in New  
Territories

**Appendix III**

Previous Applications

**Appendix IV**

Similar Applications

**Appendix V**

Detailed Comments from Relevant Government Departments

**Appendix VI**

Public Comments

**Appendix VII**

Recommended Advisory Clauses

**Drawings A-1 to A-2**

Proposed Small Houses Layout Plans

**Plan A-1**

Location Plan

**Plan A-2a**

Site Plan

**Plan A-2b**

Estimated Amount of Land Available for Small House  
Development within the “V” zone of Ma Mei Ha Leng Tsui and  
Leng Pei Tsuen

**Plan A-3**

Aerial Photo

**Plans A-4a to 4c**

Site Photos

**PLANNING DEPARTMENT  
JANUARY 2024**