

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LYT/728 and 729

<u>Applicants</u>	: (i) Mr. PANG Chi Hoi (Application No. A/NE-LYT/728) (ii) Mr. PANG Chi Kong (Application No. A/NE-LYT/729) represented by Asia Tact Planning & Consultant Company Limited
<u>Sites</u>	: (i) Lot 1773 S.A ss. 1 (Application No. A/NE-LYT/728) (ii) Lot 1773 S.A ss. 3 (Application No. A/NE-LYT/729) All in D.D. 76, Ma Mei Ha Leng Tsui, Fanling, New Territories
<u>Site Areas</u>	: 150.7 m ² (about) (Application No. A/NE-LYT/728) 141.8 m ² (about) (Application No. A/NE-LYT/729)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposals

1.1 The applicants, who claimed themselves as indigenous villagers of Fanling Village of Fanling Heung ¹, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Ma Mei Ha Leng Tsui, Fanling (**Plans A-1 and A-2a**). The Sites fall 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)’ is a Column 2 use in the “AGR” zone requiring planning permission from the Town Planning Board (the Board).

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

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

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

- 1.3 The applicants indicate that the uncovered area of the Sites would be used for garden. Layouts of the two proposed Small Houses under applications No. A/NE-LYT/728 and 729 (including septic tanks) are shown on **Drawings A-1 and A-2** respectively.
- 1.4 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia to Ib**) which were received on 27.5.2020.
- 1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 24.7.2020 for consideration of the applications has been rescheduled, and the Town Planning Board has agreed to defer consideration of the applications and the applications are now scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

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 Ib**. They can be summarized as follows:

- (a) the applicants are indigenous villagers of Fanling Village and are eligible to apply for Small House development within the 'VE' of the village;
- (b) Ma Mei Ha Leng Tsui is one of the recognized villages;
- (c) the Sites and their footprints of the proposed Small Houses are within the 'VE' of Ma Mei Ha Leng Tsui Village;
- (d) the Sites are generally flat and vacant, located in the midst of the 'VE' of Ma Mei Ha Leng Tsui Village. They are close to the village proper to the northeast and new village cluster is forming to the north and southwest; and
- (e) there are similar approved Small House applications in the vicinity of the Sites.

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 67 similar applications for Small House development within/partly within the “AGR” zone in the vicinity of the Sites in Lung Yeuk Tau and Kwan Tei South area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. Except A/NE-LYT/267 which was rejected mainly on the grounds that it did not comply with Interim Criteria as the application site fell entirely outside both the “V” zone and the ‘VE’ of a recognized village, all the other 66 similar applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between April 2003 and May 2020. These applications were approved mainly on the 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; the proposed Small House developments were not incompatible with the surrounding rural and village environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area; the implementation of Small Houses formed a new village cluster in the locality and previous/similar applications were approved by the Committee.
- 6.2 Details of the applications are summarized at **Appendix III** and their locations are shown on **Plans A-1 and A-2a**.

7. The Sites and Their Surrounding Areas (**Plans A-1, A-2a and A-2b**, aerial photo on **Plan A-3** and site photos on **Plan A-4**)

- 7.1 The Sites are:
- (a) vacant and covered by grass;
 - (b) located to the immediate west of the village cluster of Ma Mei Ha Leng Tsui Village (**Plan A-2a**); and
 - (c) accessible by a local track.
- 7.2 The surrounding areas have the following characteristics:
- (a) situated in a rural setting dominated by village houses, temporary structures, fallow agricultural land and tree groups;
 - (b) to the immediate southwest adjoining with the Sites are the Sites with planning applications No. A/NE-LYT/675 and 676 approved in October 2018;
 - (c) to the immediate northwest is vacant land; and further north are sites of planning applications for Small House developments approved between May 2008 and September 2019;
 - (d) to the east are village houses in the “V” zone of Ma Mei Ha Leng Tsui village cluster; and
 - (e) to the west and further south are the sites with planning applications approved for Small House developments between April 2014 and June 2018 and some village houses under construction.

8. Planning Intention

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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 the footprints of the proposed Small Houses fall within the “AGR” zone.</p>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - The Sites - Footprints of the proposed Small Houses 	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<p>DLO/N, LandsD advises that the Sites fall 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>✓</p>	<p><u>Land Required</u></p> <ul style="list-style-type: none"> - Land required to meet the Small House demand in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 4.45 ha (equivalent to 178 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster are 46² while the 10-year Small House demand forecast for the same village is 132.
	<p>Sufficient land in “V” zone to meet outstanding Small House application?</p>		<p>✓</p>	<p><u>Land Available</u></p> <ul style="list-style-type: none"> - 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 0.89 ha (equivalent to 35 Small House sites) (Plan A-2b).

² Among the 46 outstanding Small House applications, 4 of them fall within the “V” zone and 42 straddle or outside the “V” zone. For those 42 applications straddling or outside the “V” zone, 29 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	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, 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 setting and environment dominated by village houses and fallow agricultural land (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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 for the applications.
11.	Sewage 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?		✓	<ul style="list-style-type: none"> - The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from landscape planning perspective. - The Sites are situated in an area of rural inland plain landscape character comprising village houses and vegetated areas. Significant landscape impact by the proposed use is not anticipated. The proposed use is considered not incompatible with the surrounding setting. - It is noted that there is no major public frontage along the site boundary and the Sites have inadequate space. Should the Board approve the applications, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.
13.	Local objection conveyed by DO?		✓	District Officer (North) (DO(N)) advises that the Indigenous Inhabitant Representative (IIR) of Leng Tsui has no comment on the applications. The Chairman of Fanling District Rural Committee and the Resident Representative (RR) of Leng Tsui object to the applications on the grounds of adverse environmental impact. The North District Council member of the subject constituency did not reply.

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

10. Public Comments Received During Statutory Publication Period

On 5.6.2020, the applications were published for public inspection. During the statutory public inspection period, five public comments were received for both applications (**Appendix V**). The Sheung Shui District Rural Committee indicates no comment on the applications. The remaining four public comments from the Chairman, the First Vice Chairman of Fanling District Rural Committee, Designing Hong Kong and an individual raise objection to the applications mainly on the grounds that there is potential environmental pollution during construction stage that would affect villagers' quality of life; the proposed development is not in line with the planning intention of "AGR" zone; land is still available within "Village Type Development" zone; septic tank would contaminate water sources; and approval of the applications will set undesirable precedents for similar applications in the area.

11. Planning Considerations and Assessments

- 11.1 The applications are for Small House developments in an area zoned "AGR" on the OZP (**Plans A-1 and A-2a**). The proposed Small Houses 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. DAFC does not support the applications from the agricultural development point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD's records, the total number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 46 while the 10-year Small House demand forecast for the same village cluster is 132. According to the latest estimate by PlanD, about 0.89ha (equivalent to 35 Small House sites) of land are available in the "V" zone of the subject village cluster for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the Sites fall within the 'VE' of the subject village cluster.
- 11.3 The Sites are vacant and covered by grass. The village proper of Ma Mei Ha Leng Tsui and Leng Pei is located to the immediate east of the Sites and there are approved Small House applications in the vicinity of the Sites (**Plan A-2a**). The proposed Small Houses

are not incompatible with the surrounding rural landscape character dominated by village houses and vegetated areas. Significant landscape impact on existing landscape resources arising from the applications is not anticipated. In this regard, 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 two Small Houses, the applications could be tolerated. Other relevant Government departments, including DEP, CE/MN of DSD and D of FS, have no adverse comment on/no objection to the applications.

- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen (**Plan A-2a**). Land available (about 0.89ha or equivalent to 35 Small House sites) within the “V” zone is insufficient to meet the 46 outstanding Small House applications and Small House demand of 178 Small Houses (including the 10-year demand forecast for 132 Small Houses). The applications are generally considered in compliance with the Interim Criteria and sympathetic consideration could be given to the applicants. Besides, the Sites are in close proximity to the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and bounded by existing cluster of village houses and Small House applications approved at different stages of development nearby. The implementation of which are forming a new village cluster in the vicinity of the Sites (**Plan A-2a**).
- 11.5 As shown on **Plan A-2a**, there are 53 similar applications for Small House development in close proximity to the Sites. All similar applications were approved with conditions by the Committee between April 2003 and May 2020 mainly on the grounds of complying 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; compatible with the surrounding rural environment; no significant adverse impacts on the surrounding area; and the implementation of Small Houses formed a new village cluster in the locality. The circumstances of the current applications are similar to the previously approved similar applications.
- 11.6 Regarding four adverse public comments, 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 D(O)N of HAD and public comments mentioned in paragraphs 9.1 and 10 above, 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 permission shall be valid until 1.9.2024, 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; and
- (b) 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**.

- 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 permission.
- 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 permission 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	Application Forms with attachments received on 27.5.2020
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 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
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 Ma Mei Ha Leng Tsui and Leng Pei for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos