

- 1.2 According to the applicants' submission, details of the applicants and their respective Lots No. are the same as the previously approved application No. A/NE-LYT/437 (**Plan A-2a**) as follows:

<u>House</u>	<u>Applicant</u>	<u>Lot No.</u>
H1	Mr. PANG Yuk Loon	Lot 1749 S.L in D.D 76
H2	Mr. PANG Chau Fat	Lot 1749 S.M in D.D 76
H3	Mr. PANG Ping Wai	Lot 1749 S.N in D.D 76
H4	Mr. CHAN Hing Kau	Lot 1749 S.O in D.D 76
H5	Mr. PANG Ying Wah	Lot 1749 S.P in D.D 76
H6	Mr. PANG Shuen Kai	Lot 1749 S.Q in D.D 76
H7	Mr. PANG Chung Fai Daniel	Lot 1749 S.R in D.D 76
H8	Mr. PANG Hon Wa	Lot 1749 S.T in D.D 76
H9	Mr. PANG Lok Hei	Lot 1749 S.U in D.D 76
H10	Mr. PANG Kin Kee	Lot 1749 S.V in D.D. 76
H11	Mr. CHAN Chi Sang	Lot 1749 S.W in D.D 76

- 1.3 Details of each of the 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

- 1.4 The applicants indicate that the uncovered area of the Site (including Lots 1749 S.S and 1749 RP (Part)) would be used as circulation area. Layouts of the eleven proposed Small House is shown on **Drawing A-1**.
- 1.5 The Site is the subject of two previous applications (No. A/NE-LYT/424 and 437) for the development of eleven NTEHs and eleven NTEHs (Small Houses) respectively. Application No. A/NE-LYT/424 for the development of eleven NTEHs was rejected by the Rural and New Town Planning Committee (the Committee) on 16.7.2010, whereas planning application No. A/NE-LYT/437 for the development of eleven Small Houses submitted by the same applicants as the current application was approved by the Committee on 8.7.2011. The planning permission was extended with validity up to 8.7.2019. The planning permission lapsed on 9.7.2019. Compared with the last previous application No. A/NE-LYT/437, there is no change to the major development parameters including the site area and the layouts of the proposed Small Houses, except that the applicants have proposed to connect the proposed Small House to public sewer instead of using septic tank for sewage disposal (**Appendix Ia**).
- 1.6 In support of the application, the applicants have submitted the Application Form with attachments (**Appendix I**) and Further Information (FI) (**Appendix Ia**) which was received on 10.6.2019 and 22.7.2019 respectively.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in part 9 of the Application Form and FI in **Appendices I and Ia**. They can be summarised as follows:

- (a) the Site is the only available vacant lots owned by the applicants for building Small Houses;

- (b) there are similar applications in the vicinity of the Site; and
- (c) the Site was the subject of a previous planning permission for eleven Small House developments (application No. A/NE-LYT/437). The planning permission was extended to 8.7.2019. According to the Town Planning Board Guidelines, no more extension of time for the planning permission would be allowed by the Board. As such, fresh application is submitted.

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

The applicants are the “current land owners” of their respective lots for Small House Developments. Detailed information would be deposited at the meeting for Members’ inspection. In respect of the circulation area (i.e. Lots 1749 S.S and 1749 RP (Part)) owned by other “current land owner(s)”, the applicants have complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent from the “current land owner”. 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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/NE-LYT/424 and 437) for the development of eleven NTEHs and NTEHs(Small Houses) respectively.
- 5.2 Application No. A/NE-LYT/424 covering a larger site for the proposed 11 NTEHs (not Small Houses) submitted by different applicant as the current application was rejected by the Committee on 16.7.2010 on the grounds that the proposed development was not in line with the planning intention of “AGR” zone and there was no strong planning justification in the submission for a departure from the planning intention; the application site fell within the village ‘environs’ (‘VE’) of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and land within ‘VE’ or “Village Type Development” (“V”) zone for recognized New Territories villages should be primarily reserved for Small House development by indigenous villagers; and approval of the application would set an undesirable precedent for similar applications within “AGR” zone in the future.
- 5.3 Application No. A/NE-LYT/437 for the development of eleven Small Houses submitted by the same applicants as the current application was approved by the Committee on 8.7.2011 mainly on the considerations that the application generally complied with the Interim Criteria in that most of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone at the time of consideration; the proposed developments were not incompatible with the surrounding

area; and significant adverse landscape impact was not anticipated. The planning permission of that previous application was extended to 8.7.2019. The validity of planning permission lapsed on 9.7.2019. Compared with the last previous application no A/NE-LYT/437, there is no change to the major development parameters including the site area and the layouts of the proposed Small Houses, except that the applicants have proposed to connect the proposed Small House to public sewer instead of using septic tank for sewage disposal.

- 5.4 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 62 similar applications for Small House development within/partly within the “AGR” zone in the vicinity of the Site 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 application No. A/NE-LYT/267 which was rejected by the Committee in September 2003 as its fell entirely outside both the “V” zone and the ‘VE’ of a recognized village, all the other 61 similar applications involving 44 sites were approved with conditions by the Committee between April 2003 and October 2018. 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 and previous/similar applications were approved by the Committee.
- 6.2 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Area (Plans A-1, A-2a and A-2b, A-3 and A-4)

- 7.1 The Site is:
- (a) flat, vacant with a footpath and mostly covered by wild grass (**Plan A-4**);
 - (b) located to the immediate west of the village proper of Leng Pei Tsuen (**Plan A-2a**);
and
 - (c) accessible via a local track.
- 7.2 The surrounding areas have the following characteristics:
- (a) predominantly rural in character where village houses and active/fallow agricultural land are found;
 - (b) to the north and east are the village houses in “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen (**Plans A-2a and A-3**);

- (c) to the west and northwest is vacant land with approved planning applications (No. A/NE-LYT/391, 404, 472, 489, 547, 561, 597 and 635) for Small House developments (**Plan A-2a**); and
- (d) to the south are the site of approved Small House planning application No. A/NE-LYT/558 and some active/fallow agricultural land (**Plan A-2a**).

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 application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Site - Footprint of the proposed Small House	- -	100% 100%	The Site and footprints of the proposed Small Houses fall entirely within “AGR” zone.
2.	Within ‘VE’? - The Site - Footprints of the proposed 11 Small Houses	100% 100%	- -	DLO/N, LandsD advises that the Site falls entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet the Small House demand in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 4.43 ha (equivalent to 177 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster are 45 ² while the 10-year Small House demand forecast for the same village cluster is 132.

² Among the 45 outstanding Small House applications, 4 of them fall within the “V” zone and 41 straddle or outside the “V” zone. For those 41 applications straddling or being outside the “V” zone, 20 of them have already obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House application?		✓	<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 Tsuen village cluster: about 0.89 ha (equivalent to 35 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Site is currently fallow overgrown with grasses. The agricultural activities in the vicinity are active, and agricultural infrastructures such as road access and water source are available. The application can be used for agricultural activities such as open-field cultivation, greenhouse, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
5.	Compatible with surrounding area/ development?	✓		The Site is located to the immediate east of Leng Pei Tsuen and the proposed Small House is not incompatible with the surrounding rural setting and environment dominated by village houses and active/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)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the application. The applicants are reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has reservation on the application 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 development outside the “V” zone, if permitted, will set

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.</p> <ul style="list-style-type: none"> - Notwithstanding the above, the application involves construction of elven Small Houses. She considers that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and has no adverse comments to the proposed replacement of septic tanks by connection with public sewer. - Approval conditions on the submission and implementation of drainage proposal and sewerage proposal are required.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - The Director of Environmental Protection (DEP) has no objection to the application subject to the Site for the proposed houses will be connected to the future public sewerage system before their occupation and adequate land will be reserved for the sewerage connection works. - Based on the FI, it is noted that applicants proposed to connect the NTEHs to the planned public sewer in the vicinity, which is currently included in the North District sewerage stage 1 phase 2C.
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 application from the landscape planning point of view. - Since there is no major public frontage along the site boundary, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by DO?	✓		District Officer (North) (DO(N)) advises that he has consulted the locals. The Chairman of Fanling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Leng Pei Tsuen had no comment on the application.

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 application:

- (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

On 18.6.2019, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix VI**). The Chairman of Shueng Shui Rural Committee indicates no comment on the application. World Wide Fund For Nature Hong Kong, Designing Hong Kong Limited and an individual object to the application on the considerations that the proposed Small House is not in line with planning intention of the “AGR” zone; active agricultural activities are found in the vicinity of the Site; land is still available in “V” zone of Ma Mei Ha Village and Leng Pei Tsuen; the proposed development of eleven Small Houses has higher potential to cause pollution and approval of the application will set an undesirable precedent for similar applications in the area.

11. Planning Considerations and Assessments

11.1 The Site falls entirely within an area zoned “AGR” on the OZP. The proposed Small House development is 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 application from the agriculture point of view as the Site possesses potential for

agricultural rehabilitation.

- 11.2 DLO/N, LandsD advises that the Site falls entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen. 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 45 while the 10-year Small House demand forecast for the same village cluster is 132. According to the latest estimate by PlanD, about 0.89 ha (equivalent to 35 Small House sites) of land are available within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen for Small House development (**Plan A-2b**), which is insufficient to meet even the outstanding Small House applications. As such, the application generally complies with the Interim Criteria and sympathetic consideration should be given to the application.
- 11.3 The Site is flat and covered with grass (**Plan A-3**). It is situated in an area of rural village character in close proximity to the existing village houses, and the proposed Small House development is not incompatible with the surrounding environment (**Plans A-2a and A-3**). The village proper of Leng Pei Tsuen is located to the immediate east and there are approved Small House applications to the northwest and west of the Site. CTP/UD&L, PlanD has no objection to the application as significant adverse impact arising from the proposed use on existing landscape resources is not anticipated. DEP has no objection to the application given that the applicants have proposed to connect the Small House developments to the planned public sewer in the vicinity and should have sufficient capacity to cater for sewage arising from the proposed developments. C for T has reservation on the application and considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed development involves eleven Small Houses, it could be tolerated. Other Government departments consulted, including CE/C of WSD, CHE/NTE of HyD, CE/MN of DSD, PM/N of CEDD and D of FS, have no adverse comment on or no objection to the application.
- 11.4 It is noted that there are 9 similar applications for Small House developments in the vicinity of the Site (i.e. applications No. A/NE-LYT/391, 404, 472, 489, 547, 558, 561, 597 and 635) within the “VE” of Ma Mei Ha Leng Tsui and Leng Pei Tsuen (**Plan A-2a**). All applications were approved between 2009 and 2017 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 and previous/similar applications were approved by the Committee. It should also be noted that the Site is the subject of a previously approved application (No. A/NE-LYT/437) submitted by the same applicants as the current application. There has not been any major change in planning circumstances of the area since the approval of these similar and previous applications.
- 11.5 Regarding the adverse public comments as detailed in paragraph 10 above, the Government department’s comments and the planning assessment 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 and public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 2.8.2023, 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 submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the submission and implementation of sewerage 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 application, 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 in 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.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to approve the application, 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 application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendix I Application Forms with Attachments received on 10.6.2019
Appendix Ia FI received on 22.7.2019

Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous s.16 Applications
Appendix IV	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 area
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Layout Plan
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 Leng Tsui and Leng Pei Tsuen for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2019**