RNTPC Paper No. A/NE-LYT/732 to 737 for Consideration by the Rural and New Town Planning Committee on 23.10.2020

APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LYT/732 to 737

Mr. WONG Wai Lun (Application No. A/NE-LYT/732) **Applicants** (i)

> (Application No. A/NE-LYT/733) (ii) Mr. LO Wai Kwan (iii) Mr. KOON Kit Wah (Application No. A/NE-LYT/734)

> (iv) Mr. LAU Kwai Ming (Application No. A/NE-LYT/735)

> (v) Mr. PANG Heung Fai (Application No. A/NE-LYT/736)

> (vi) Mr. PANG Man Kait (Application No. A/NE-LYT/737)

(with 李國龍 as Power Attorney) represented by Glister Engineering

Consultants Company

(i) Lot 702 S.I in D.D. 83 (Application No. A/NE-LYT/732) Sites

> (ii) Lot 702 S.H in D.D.83 (Application No. A/NE-LYT/733)

(iii) Lots 702 S.J and 703 S.U in D.D. 83 (Application No. A/NE-LYT/734)

(iv) Lot 703 S.T in D.D. 83 (Application No. A/NE-LYT/735)

(v) Lot 703 S.V in D.D. 83 (Application No. A/NE-LYT/736) (vi) Lot 703 S.S in D.D. 83 (Application No. A/NE-LYT/737)

All in Kwan Tei, Fanling, New Territories

(Application No. A/NE-LYT/732) **Site Areas** (i) 128 m² (about)

(ii) 106 m² (about) (Application No. A/NE-LYT/733)

(iii) 97 m² (about) (Application No. A/NE-LYT/734)

(Application No. A/NE-LYT/735) (iv) 111 m² (about)

(v) 116 m² (about) (Application No. A/NE-LYT/736)

(vi) 111 m² (about) (Application No. A/NE-LYT/737)

Lease : Block Government Lease (demised for agricultural use)

: Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) Plan

No. S/NE-LYT/17

: "Agriculture" ("AGR") Zonings (Applications No. A/NE-LYT/732 to 736)

"AGR" (about 100m² or 90.1% of the site); (Application No. A/NE-LYT/737)

"Village Type Development" ("V")

(about 11m² or 9.9% of the site)

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

1. The Proposals

- 1.1 The applicants, who claimed themselves as indigenous villagers ¹, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Kwan Tei Village (**Plans A-1 and A-2a**). The Sites under Applications No. A/NE-LYT/732 to 736 fall entirely within an area zoned "AGR" whereas the Site under Application No. A/NE-LYT/737 falls mainly within an area zoned "AGR" (about 90.1%) with a minor portion within an area zoned "V" (about 9.9%) 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 six proposed NTEHs (Small Houses) are as follows:

Total Floor Area : 195.09 m²

Number of Storeys : 3 Building Height : 8.23 m Roofed Over Area : 65.03m²

- 1.3 The applicants indicate that the uncovered area of the Sites would be used for garden. Layouts of the six proposed Small Houses under applications No. A/NE-LYT/732 to 737 (including septic tanks) are shown on **Drawings A-1 to A-6** respectively.
- In support of the applications, the applicants have submitted the Application Forms with attachments under Applications No. A/NE-LYT/732, 733 to 735, 736 and 737 (**Appendices Ia to If**) which were received on 24.8.2020, 28.8.2020, 1.9.2020 and 2.9.2020 respectively.

2. <u>Justifications from the Applicants</u>

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 If**. They can be summarized as follows:

- (a) the applicants are registered owners of the Sites;
- (b) the applicants are indigenous villagers and are eligible to apply for Small House according to the current Small House policy;
- (c) the Sites fall within the 'Village Environ' of Kwan Tei Village;
- (d) the proposed developments are compatible with the surrounding environment and land use; and
- (e) there are similar approved Small House applications in the vicinity of the Sites.

The applicants under applications No. A/NE-LYT/732 to 735 claimed themselves to be indigenous villagers of Sze Tau Leng Village, Wo Hop Shek Village, Kwan Tei Village and Hok Tau Village while the applicants under applications No. A/NE-LYT/736 and 737 claimed themselves to be indigenous villagers of Fanling Wai Village. According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants' eligibility for Small House grants have yet to be ascertained.

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 Applications

- 5.1 The Sites under applications No. A/NE-LYT/732 to 737 are the subject of previous applications No. A/NE-LYT/563, 562, 564, 566 to 567 and 565 respectively for the same use submitted by the same applicants as the current applications. The applications were approved by the Committee on 22.5.2015 mainly on the considerations that the applications 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. However, the planning permissions lapsed on 23.5.2019 as the approved developments did not commence within the validity period. Compared with the previously approved applications, there is no change to the major development parameters including the site area and the layout of the proposed Small Houses.
- 5.2 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 18 similar applications in the vicinity of the Sites for Small House development within/partly within the "AGR" zone in the vicinity of the Sites (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. Of them, 15 applications were approved and 3 were rejected.
- 6.2 For the 15 approved applications, 7 were approved by the Committee between November 2004 and December 2014 (i.e. before a more cautious approach is adopted by the Board) (**Plan A-1**) mainly on the grounds 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 "V" zone of the same village in meeting the Small House demand; the proposed developments were not incompatible with the adjacent village setting and the surrounding rural character of the environment; and the proposed Small House developments were not expected to have significant adverse traffic, drainage, environmental and/or landscape impacts. Eight applications (No. A/NE-LYT/587, 588, 599, 603, 632, 682, 721 and 722) were approved by the Committee between February 2016 and May 2020 (i.e. after a more cautious approach is adopted by the Board) mainly on the grounds of the sites were the subject of previously approved applications; they were in close proximity to the existing village proper of Kwan Tei Village and there were approved Small House applications nearby

forming a new village cluster in the locality.

- 6.3 The remaining 3 applications (No. A/NE-LYT/399, 400 and 511) were rejected by the Committee between September 2009 and July 2013 (i.e. before a more cautious approach is adopted by the Board) mainly on the grounds that the proposed Small House developments did not comply with the Interim Criteria as more than 50% of the footprints of the proposed Small Houses fell outside the "V" zone and the 'VE' of a recognized village; the proposed developments were not in line with the planning intention of the "AGR" zone; and approval of the applications would set undesirable precedents for similar applications in the area.
- 6.4 Details of the applications are summarized at **Appendix IV** 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 Plans A-4a and A-4b)
 - 7.1 The Sites are:
 - (a) flat and vacant; and
 - (b) located to the south of the village cluster of Kwan Tei Village.
 - 7.2 The surrounding areas have the following characteristics:
 - (a) the Sites are situated in an area of rural landscape character dominated by village houses and agricultural land, and the village proper of Kwan Tei Village is at their north (**Plan A-2a**);
 - (b) to the immediate west and south of the Sites are some fallow agricultural and vacant land; to its further south are village houses of Fu Tei Pai Village;
 - (c) to the immediate north are mixed of village houses, fallow agricultural and vacant land with Small House applications being processed largely within the "V" zone;
 - (d) to the immediate southeast of the Sites are village houses and to its further east are structures for domestic use; and
 - (e) there is no vehicular access to the Sites.

8. Planning Intentions

- 8.1 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.
- 8.2 The planning intention of the "V" zone 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:

	Criteria	Yes	No	Remarks
1.	Within "V" zone?			
	- The Sites	_	100%	- The Sites fall entirely within the "AGR" zone (Applications No. A/NE-LYT/732 to 736).
		9.9%	90.1%	- The Site falls mainly within the "AGR" zone (about 90.1%) whereas part of the Site falls within the "V" zone (about 9.9%) (Application No. A/NE-LYT/737).
	- Footprints of the proposed Small Houses	-	100%	- The footprints of the proposed Small Houses fall entirely within the "AGR" zone (Applications No. A/NE-LYT/732 to 736).
		4.98%	95.02%	- The footprint of the proposed Small House falls mainly within "AGR" zone (about 95.02%) whereas part of the Site falls within the "V" zone (about 4.98%) (Application No. A/NE-LYT/737).
2.	Within 'VE'?			
	- The Sites			DLO/N, LandsD advises that the majority of the Sites under Applications No.
	Application No. A/NE-LYT/732	58.8%	41.2%	A/NE-LYT/732 to 734 and 736 fall within the 'VE' of Kwan Tei Village while the other two Sites under Applications No.
	Application No. A/NE-LYT/733	84.3%	15.7%	A/NE-LYT/735 and 737 fall entirely within the 'VE' of the same village.
	Application No. A/NE-LYT/734	79.7%	20.3%	
	Application No. A/NE-LYT/735	100%	-	
	Application No. A/NE-LYT/736	61.9%	38.1%	
	Application No. A/NE-LYT/737	100%	-	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	- Footprints of the proposed Small Houses			
	Application No. A/NE-LYT/732	62.9%	37.1%	
	Application No. A/NE-LYT/733	92.5%	7.5%	
	Application No. A/NE-LYT/734	89.3%	10.7%	
	Application No. A/NE-LYT/735	100%	-	
	Application No. A/NE-LYT/736	88.5%	11.5%	
	Application No. A/NE-LYT/737	100%	-	
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		√	Land Required - Land required to meet the Small House demand in Kwan Tei Village: about 10.5 ha (equivalent to 420 Small House sites). The outstanding Small House applications for Kwan Tei Village are 45 ² while the 10-year Small House demand forecast for the same village is 375.
	Sufficient land in "V" zone to meet outstanding Small House application?	✓		Land Available - Land available to meet the Small House demand within the "V" zone of Kwan Tei Village: about 2.48 ha (equivalent to 99 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 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

² Among the 45 outstanding Small House applications, 29 of them fall within the "V" zone and 16 straddle or outside the "V" zone. For those 16 applications straddling or outside the "V" zone, 5 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	Yes	<u>No</u>	<u>Remarks</u>
				applications are not supported from agricultural point of view.
5.	Compatible with surrounding area/ development?	√		The proposed Small Houses are not entirely incompatible with the surrounding rural setting and environment dominated by village houses and abandoned 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?			 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 involve construction of six Small Houses. She considers that the applications can be tolerated unless
10.	Drainage impact?	✓		being rejected on other grounds. 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.

	<u>Criteria</u>	Yes	No	Remarks_
11.	Sewage impact?		√	The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications are unlikely to cause major pollution.
12.	Landscaping impact?		*	 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, temporary structures and vegetated areas. Based on aerial photo of 2019, the Sites are abandoned agricultural land. Significant adverse landscape impact arising from the developments within the Sites is not anticipated. The Sites are at the interface between abandoned agricultural land to the west and built up area to the east. As there are many existing small houses in the close proximity to the Sites, the proposed developments are considered not entirely incompatible with the landscape character of the surrounding setting.
13.	Local objection conveyed by DO?			District Officer (North) (DO(N)) advises that the Chairman of Fanling District Rural Committee and the Indigenous Inhabitant Representative of Fu Tei Pai Village have no comment on the applications. The incumbent North District Council Member objects to the applications mainly on the grounds of adverse traffic impact on the surrounding areas and insufficient infrastructure in support of proposed developments. The Resident Representative of Fu Tei Pai Village 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 V**.

- (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 1.9.2020, 4.9.2020 and 11.9.2020, the applications were published for public inspection. During the statutory public inspection periods, three public comments were received for each application (**Appendix VI**). The Sheung Shui District Rural Committee indicates no comment on the applications. The remaining two public comments from Designing Hong Kong and an individual raise objection to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of "AGR" zone; the intention of Small House policy is not for creation of new village; land is still available within the "V" zone; the proposed developments would cause adverse environmental impact; and approval of the applications will set undesirable precedents for similar applications in the area.

11. Planning Considerations and Assessments

- 11.1 Except the Small House development under application No. A/NE-LYT/737 with a minor portion falling within "V" zone (about 9.9%), the other Sites are entirely 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 Kwan Tei Village is 45 while the 10-year Small House demand forecast for the same village is 375. According to the latest estimate by PlanD, about 2.48 ha (equivalent to 99 Small House sites) of land are available in the "V" zone of Kwan Tei Village for Small House development (Plan A-2b). DLO/N, LandsD advises that two Sites under Applications No. A/NE-LYT/735 and 737 fall entirely within the 'VE' of Kwan Tei Village while the majority of the Sites under Applications No. A/NE-LYT/732 to 734 and 736 fall within the 'VE' of the same village.
- 11.3 The Sites are flat and vacant. The village proper of Kwan Tei is located to the immediate north of the Sites (**Plan A-2a**). The proposed Small House developments are compatible with the surrounding rural landscape character dominated by village houses and active/fallow agricultural land (**Plan A-3**). Significant adverse 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 six Small Houses, they 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 Kwan Tei Village (Plan A-2a). While land available within the "V" zone is insufficient to fully meet the future Small House demand of 420 Small Houses, such available land (about 2.48 ha or equivalent to 99 Small House sites) is capable to meet the 45 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. 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. Nevertheless, it is noted that the Sites are the subject of previously approved planning applications (No. A/NE-LYT/562 to 567) for the same use approved by the Committee in 2015 and submitted by the same applicants under the current applications. The Sites are in close proximity to the existing village proper of Kwan Tei Village to the north and village houses to the northeast and southeast (Plan A-2a). The implementation of those approved Small Houses is forming a new village cluster in the locality. There has not been any major change in planning circumstances of the area since the approval of the previous applications. In this regard, sympathetic consideration might be given to the applications.
- There are 4 similar applications for Small House development in the vicinity of the Sites. Three applications (No. A/NE-LYT/499, 510 and 517) were approved between March 2013 and October 2013 (i.e. before a more cautious approach is adopted by the Board) (**Plan A-2a**) mainly on the grounds of complying with the Interim Criteria. The remaining one application (No. A/NE-LYT/632) located to the northeast of the Sites was approved in September 2017 (i.e. after a more cautious approach is adopted by the Board) on the considerations that the Site was a subject of a previous application, the proposed development was in close proximity to the existing village proper of Kwan Tei and there were approved Small House applications nearby forming a new village cluster in locality. It is considered that the circumstances of the current applications are similar to the approved application No. A/NE-LYT/632.
- 11.6 Regarding the local objections conveyed by D(O)N of HAD and public comments mentioned in paragraphs 9.1 and 10 above, Government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

- Based on the assessments made in paragraph 11 and having taken into account the local objections conveyed by D(O)N of HAD and public comments mentioned in paragraphs 9.1 and 10 above, the Planning Department <u>has no objection</u> 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 23.10.2024, 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 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 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 Kwan Tei Village which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

13. <u>Decision Sought</u>

- 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 If

Application Forms with attachments received on 24.8.2020, 28.8.2020, 1.9.2020 and 2.9.2020

Appendix II

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 s.16 Applications for Proposed House (New Territories Exempted House (NTEH) - Small House) within/partly within the

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 V Detailed Comments from Relevant Government Departments

Appendix VI Public Comments

Appendix VII Recommended Advisory Clauses

Drawings A-1 to A-6 Layout Plans
Plan A-1 Location Plan
Plan A-2a Site Plan

Plan A-2b Estimated Amount of Land Available within the "V" zone Kwan Tei

Village for Small House Development

Plan A-3 Aerial Photo
Plans A-4a and A-4b Site Photos

PLANNING DEPARTMENT OCTOBER 2020