

**Interim Criteria for Consideration of Application for
New Territories Exempted House(NTEH)/Small House in New Territories**

(A) Explanatory Notes on NTEH/Small House Development Exempted from Planning Application

- (a) for NTEH/Small House development on a site straddling the “Village Type Development” (“V”) zone and other land use zones, planning permission will not be required if the proposed NTEH/Small House footprint falls wholly within the “V” zone;
- (b) planning permission will also not be required if not less than 50% of the footprint of a Small House falls within the “V” zone and the village ‘environs’ (‘VE’) of a recognized village;
- (c) the above exemption from planning application is not applicable to any NTEH/Small House development on a site encroaching on:
 - (i) conservation-related zones (such as “Coastal Protection Area”, “Conservation Area”, “Site of Special Scientific Interest”) and “Country Park”;
 - (ii) “Green Belt” zone;
 - (iii) “Open Space” (“O”) zone involving Government land, or where the proposed NTEH/Small House footprint encroaching on the “O” zone;
 - (iv) water gathering grounds; and
 - (v) area shown as ‘Road’.
- (d) notwithstanding (c) above, if only a very minor portion of the site (5% or 10m², whichever is the less) falls outside the “V” zone (regardless of the other zoning(s) involved), it will be regarded as minor boundary adjustment always permitted under the covering Notes of the relevant Outline Zoning Plan/Development Permission Area Plan provided that no tree felling is involved and no adverse impacts are envisaged.

(B) Assessment Criteria for Planning Application

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village ‘environs’ (‘VE’) of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the ‘VE’, favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the “V” zone, provided that there is a general shortage of land in meeting the demand for Small House development in the “V” zone and the other criteria can be satisfied;

- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) if an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development*);
- (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
- (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.

*i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

TPB PG-NO. 10

TOWN PLANNING BOARD GUIDELINES FOR
APPLICATION FOR DEVELOPMENT WITHIN GREEN BELT ZONE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

(Important Note :

The guidelines are intended for general reference only. The decision to approve or reject an application rests entirely with the Town Planning Board and will be based on individual merits and other specific considerations of each case.

Any enquiry on this pamphlet should be directed to the Planning Information and Technical Administration Unit of the Planning Department, 17th Floor, North Point Government Offices, 333 Java Road, Hong Kong - Tel. No. 2231 5000

These guidelines are liable to revision without prior notice. The Town Planning Board will only make reference to the guidelines current at the date on which it considers an application.)

1. Introduction

- 1.1 The planning intention of the "Green Belt" ("GB") zone is primarily to promote the conservation of the natural environment and to safeguard it from encroachment by urban-type developments.
- 1.2 The "GB" zone covers mainly slopes and hillsides, most of which is naturally vegetated. Some "GB" areas are also designated as Country Parks. Most of the land within the "GB" zone is Government land, although there are also small pockets of private land, generally near built-up areas.
- 1.3 The main purposes of the "GB" zone include the following :
 - a. to conserve existing landscape features, areas of scenic value and areas of recognised "fung shui" importance;
 - b. to define the outer limits of urbanized districts and to serve as a buffer between and within urban areas; and
 - c. to provide additional outlets for passive recreational uses.
- 1.4 To preserve the character and nature of the "GB" zone, the only uses which will always be permitted by the Town Planning Board (the Board) are compatible uses which are essential and for public purpose such as waterworks, water catchment areas, nature reserves, agriculture, forestry and certain passive recreational uses. Other uses, including government/institution/community (G/IC), residential development and public utility installations will require planning permission from the Board and each proposal will be assessed on its individual merits. Applications for development will be considered by the Board according to the criteria set out below.

2. Main Planning Criteria

- a. There is a general presumption against development (other than redevelopment) in a "GB" zone. In general the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use.
- b. An application for new development in a "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas. With the exception of New Territories Exempted Houses, a plot ratio up to 0.4 for residential development may be permitted.
- c. Applications for New Territories Exempted Houses with satisfactory sewage disposal

facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers.

- d. Redevelopment of existing residential development will generally be permitted up to the intensity of the existing development.
- e. Applications for G/IC uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available. The plot ratio of the development site may exceed 0.4 so as to minimize the land to be allocated for G/IC uses.
- f. Passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration.
- g. The design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.
- h. The vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided.
- i. The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- j. The proposed development must comply with the development controls and restrictions of areas designated as water gathering grounds.
- k. The proposed development should not overstrain the overall provision of G/IC facilities in the general area.
- l. The proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.
- m. Any proposed development on a slope or hillside should not adversely affect slope stability.

**Similar s. 16 Planning Applications
on the approved Tai Mong Tsai & Tsam Chuk Wan OZP**

Rejected Applications

Application No.	Location	Zoning	Date of Consideration	Decision of RNTPC/TPB	Reasons for Rejection
A/SK-TMT/24	Lot 29A in D.D. 216 Nam A Village	“GB”	26.6.2009	Rejected	(a), (b) & (d)
A/SK-TMT/25	Lot 29B in D.D. 216 Nam A Village	“GB”	26.6.2009	Rejected	(a), (b) & (d)
A/SK-TMT/26	Lot 15 (Part) in D.D. 216 and adjoining Government Land	“GB”	26.6.2009	Rejected	(a), (b) & (d)
A/SK-TMT/27	Lot 11B in D.D. 216 Nam A	“GB”	26.6.2009	Rejected	(a), (b) & (d)
A/SK-TMT/36	Lots 160 and 161 RP in D.D.216	“GB”	10.8.2012	Rejected	(a), (b), (d) & (e)
A/SK-TMT/38	Lot 11RP in DD 216, Nam A Village	“V” & “GB”	31.5.2013	Rejected	(a), (b) & (d)
A/SK-TMT/40	Lot 25 S.A RP in D.D. 216	“GB”	3.5.2013	Rejected	(a), (b), (c) & (d)
A/SK-TMT/42	Lots 122 SA & SB in DD216, O Tau Village	“V” & “GB”	13.6.2014	Rejected	(a), (b), (c) & (d)
A/SK-TMT/56	Lot 25 S.B in D.D. 216	“GB”	22.4.2016	Rejected	(a), (b) & (d)

Reasons for Rejection:

- (a) Not in line with the planning intention of the “GB” zone.
- (b) Not in line with the Interim Criteria for Assessing Planning Application for New Territories Exempted House/Small House development in the New Territories.
- (c) Not in line with the TPB Guidelines No.10 for ‘Application for Development within “GB” zone’ in that extensive vegetation clearance would be involved.
- (d) Setting of undesirable precedent for other similar applications within the “GB” zone.
- (e) No information in the submission to demonstrate that the proposed development within the WGG would not pose adverse impact on the water quality of the area.

Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) He has no objection to the application.
- (b) The subject site is located on unleased and unallocated Government land in D.D.216, Wo Liu, Sai Kung.
- (c) The proposed Small House (“SH”) site falls entirely within the Village Environs of Wo Liu, which is a recognized village under the New Territories Small House Policy.
- (d) The 10-year Small House demand for Wo Liu Village is 14 and the outstanding Small House applications for Wo Liu Village are 3. The figure of 10-year Small House demand was provided by the Indigenous Inhabitant Representative (the IIR) of Wo Liu and his office is not in a position to verify the forecast. There is no outstanding SH application falling outside “V” zone in Wo Liu.
- (e) The applicant, Mr. LEE Tat Cheong, is an Indigenous Villager of Wo Liu as certified by a declaration from the IIR. The subject SH application submitted by the applicant was received by his office on 16.4.2013.
- (f) The SH application has not yet been approved by his office. The layout and disposition of the proposed SH might be subject to change. If works is required to be conducted on the adjoining Government land, permission has to be sought from his office separately. Approval to SH grant is not automatic even the applicant has obtained s.16 approval from Town Planning Board. The grant would be subject to all criteria being met and all relevant factors being considered.

2. Traffic

Comments of the Commissioner for Transport (C for T):

- (a) He has reservation in general on the subject application. Such type of development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development 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.

- (b) The subject application only involves construction of one NTEH - small house. He considers that this application can be tolerated unless it is rejected on other grounds.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) The application site falls within an area zoned “V” and “GB” on the approved Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP) No. S/SK-TMT/4. The site is within Water Gathering Ground (WGG).
- (b) As per WSD’s advice under ref. (4) in WSD/M/SP 3051/394/44S/18 Pt.1 dated 7 February 2018, it is noted that WSD objects to the application as the application site is located within the upper indirect WGG and the wastewater generated from the proposed house will have potential to cause pollution to the WGG.
- (c) The application site is located within WGG where no public sewer is available. The use of septic tank and soak away system should be avoided in accordance with S.5.3.13, Chapter 9 of the HKPSG to protect the WGG from pollution. In view of the above, we concur with WSD’s comment and object to the application.

4. Landscape

Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) He has strong reservations on the application.
- (b) The application site (65m²) falls within areas zoned “GB” (58%) and “V” (42%) on the approved Tai Mong Tsai and Tsam Chuk Wan OZP No. S/SK-TMT/4.
- (c) The Site is located on a piece of flat land at the foot of the uphill landscape of Ma On Shan Country Park at its northwest and west. The existing wider surrounding area of the Site is densely vegetated with landscape resources of existing trees/shrubs and of rural and natural landscape character, mainly zoned as Green Belt (“GB” zone), Conservation Area (“CA” zone) and Coastal Protection Area (“CPA” zone) along the coast in Tai Mong Tsai. There are several “V” zones of existing villages of O Tau, Long Keng and Nam A embraced by the “GB” zone. The application site falls within one of these “V” zones in Wo Liu, being partly inside the “V” zone and partly inside the “GB” zone. As observed

from the aerial photos of years 2014 to 2016, dense natural vegetation with large tree canopies is found in close vicinity and along boundary of the Site.

- (d) Given a larger portion of the Site fallen within the “GB” zone (i.e. 58%), the proposed land use is not in line with the planning intention of “GB”, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain sprawl as well as to provide passive recreational outlets. It also defines the limit for development in areas such as floodplain, water gathering ground and burial grounds. According to the Explanatory Statement of the concerned OZP, the ‘GB’ zone is to provide a buffer between the development and conservation areas or Country Park areas. There is a general presumption against development within this zone.
- (e) According to DPO/SKIs’ site photos provided via email on 5.2.2018, it is observed that four numbers of existing trees are located in the immediate adjacent of the Site, with one number of large tree (of mature size) located very close to the Site boundary. Also, further to our site inspection carried out on 26.1.2018, understorey layer of a native woodland including native seedling and shrubs such as *Alangium chinense*(八角楓), *Urena procumbens*(梵天花), *Pshchotria rubra*(山大刀), *Zanthosylum nitidum* (兩面針), *Maesa perlarius*(鯽魚膽) and *Uvaria macrophylla* (紫玉盤) are found within and in close vicinity of the site suggesting a natural succession of secondary woodland is undergoing in the area. Given the site formation works/construction/ temporary works/access of the small house that will be involved, the valuable landscape resources of the existing vegetation (mature trees with natural understorey) within and in close vicinity of the Site would be lost.
- (f) His comments from a landscape planning perspective are as follows:
 - (i) The proposed small house is not entirely compatible with the existing surrounding in the “GB” zone. Approval of the application may set an undesirable precedent case for other similar applications in the future, that may result in an overall degradation or modification of the natural landscape character of the area.
 - (ii) Vegetation/tree survey including the tree preservation proposal within and in vicinity of the Site is not provided. Any large, important trees, plant species of conservation interests are not identified. The significance of potential impacts on the existing trees/vegetation, with any possible mitigation/preventive measures, cannot be fully ascertained.

- (iii) No information regarding the proposed permanent access to the Site and temporary access for use during the construction/site formation works to be used by the applicant is provided. The potential adverse impacts to the natural existing landscape resources including trees/shrubs cannot be fully ascertained.
- (iv) Depth/finished level of the septic tank and finished floor level of the proposed small house are not given. The impacts on the existing topography of the Site cannot be ascertained.
- (v) Since the proposed land use will take up the entire site, there is a lack of space for a meaningful landscape planting (including compensatory tree planting) within the application site. I consider that it is impractical for the implementation of a landscape proposal in case the TPB consider approval to the application.
- (g) The applicant is advised to make reference to DEVB's guideline on "Design For Tree Protection Zone" under column of 'Tree Care' at the greening website http://www.greening.gov.hk/tc/tree_care/practices.html to allow adequate spacing between tree and proposed works/structures in order to avoid potential conflicts to the trees (i.e. proposed works/structures should be located to outside dripline of the tree where tree root system is located).

5. Drainage/Sewerage

Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) DSD has no in-principle objection to the application from a drainage maintenance viewpoint.
- (b) The applicant should be advised that adequate stormwater drainage facilities should be provided in connection with the proposed small house development to deal with the surface runoff of the application site without causing any adverse drainage impacts or nuisance to the adjoining areas.
- (c) There is no public sewer connection available in the vicinity of the proposed development, views and comments from the Director of Environmental Protection should be sought regarding the sewage disposal arrangement of the proposed developments.

6. Water Supply

Comments of the Chief Engineer/Construction (2), WSD (CE/C(2), WSD:

- (a) He objects to the application as the Site is located within the upper indirect water gathering ground (WGG).
- (b) There is no information in the application to indicate that the proposed house can be connected to the public sewerage system in the area. The wastewater generated from the proposed house will have potential to cause pollution to the WGG. It is thus considered that compliance with the "Interim Criteria for Consideration of Application for NTEH/Small House in NT" Item (i) cannot be established. We would object to the application.
- (c) For the provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.
- (d) DFS should note that the water mains in the vicinity cannot provide the standard pedestal hydrant.

7. Conservation

Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

The application site is covered in woodland vegetation. He has reservation on this application from the nature conservation perspective.

8. Fire Services

Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the application.
- (b) The applicant is reminded to observe 'New Territories Exempted Houses - A Guide to Fire Safety Requirements' published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department.

9. **Building Matters**

Comments of the Chief Building Surveyor/NTE2 & Rail, Building Department (CBS/NTE2 & Rail, BD):

- (a) He has no comment on the application.
- (b) The applicant should be reminded that all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with Buildings Ordinance, and Authorized Person must be appointed for the aforesaid site formation and communal drainage works.

10. **Geotechnical Aspect**

Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no objection to the application.
- (b) The applicant should be reminded to make necessary submission to the DLO to verify if the site satisfies the criteria for the exemption of site formation works as stipulated in PNAP APP-56. If such exemption is not granted, the applicant(s) shall submit site formation plans to the Buildings Department in accordance with the provisions in the Buildings Ordinance.

11. **Local Views conveyed by District Officer**

The District Officer (Sai Kung), Home Affairs Department has no comment on the application and has not received any local view relating to the application.

12. **Demand and Supply of Small House Sites**

According to DLO/SK, the total number of outstanding Small House application for Wo Liu Village is 3 while the 10-year Small House demand forecast is 14. Based on the latest estimate by the Planning Department, about 0.16ha (equivalent to about 6 Small House sites) of land are available within the subject "V" zone.

Advisory Clauses

- (a) to note the comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD) that the approval to Small House grant is not automatic even through the application has obtained planning approval from the Board. The grant would be subject to all criteria being met and all relevant factors being considered;
- (b) to note the comments of the Chief Engineer/Construction (2), Water Supplies Department (CE/C(2), WSD) that for provision of water supply to the development, the applicant may need to extend his inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (c) to note the comments of the Director of Fire Services (D of FS) that the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department;
- (d) to note the comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) that stormwater drainage facilities should be provided in connection with the proposed Small House development to deal with the surface runoff of the Site without causing any adverse drainage impacts or nuisance to the adjoining areas;
- (e) to note the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) that the applicant is reminded to make necessary submission to the District Lands Office to verify if the Site satisfies the criteria for the exemption of site formation works as stipulated in PNAP APP-56. If such exemption is not granted, the applicant shall submit site formation plans to the Buildings Department in accordance with the provisions in the Buildings Ordinance;
- (f) to note the comments of the Chief Building Surveyor/ NTE2 & Rail, Buildings Department (CBS/NTE2 & Rail, BD) that all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with Buildings Ordinance, and Authorized Person must be appointed for the site formation and communal drainage works; and
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that the applicant is advised to make reference to DEVB's guideline on "Design For Tree Protection Zone" under column of "Tree Care" at the greening website http://www.greening.gov.hk/tc/tree_care/practices.html to allow adequate spacing between tree and proposed works/structures in order to avoid potential conflicts to the trees (i.e. proposed works/structures should be located to outside dripline of the tree where tree root system is located).