

**Relevant Interim Criteria for Consideration of  
Application for NTEH/Small House in New Territories**  
**(promulgated on 7.9.2007)**

- (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.

**Previous S.16 Applications**

**Approved Application**

<b>Application No.</b>	<b>Proposed Developments</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE- LK/80	Proposed House (New Territories Exempted House - Small House)	6.9.2013	A1 - A3

**Approval Conditions**

- A1 The submission and implementation of drainage proposals
- A2 The submission and implementation of landscape proposals
- A3 The commencement clause

**Rejected Application**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE- LK/78	Proposed House (New Territories Exempted House - Small House)	1.3.2013	R1 & R2

**Rejection Reasons**

- R1 The proposed development was not in line with the planning intention of "Agriculture" zone which was 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 was no strong justification to merit a departure from the planning intention.
- R2 The proposed development was located in the immediate vicinity of a natural stream. There was insufficient information in the subject application to demonstrate that the proposed development would not cause adverse impact on the stream.

**Similar S.16 Applications for Proposed House (NTEH - Small House)  
within / partly within the “Agriculture” zone in the vicinity of the Site  
in the Luk Keng and Wo Hang Area**

**Approved Applications**

<b><u>Application No.</u></b>	<b><u>Uses/ Development</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Approval Conditions</u></b>
A/NE-LK/26	Proposed New Territories Exempted House (NTEH) (Small House)	16.2.2001	A1, A2, A3 & A9
A/NE-LK/28	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1, A2 & A3
A/NE-LK/29	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1, A2 & A3
A/NE-LK/30 <sup>1</sup>	Proposed New Territories Exempted House (NTEH) (Small House)	12.7.2002	A1, A2 & A3
A/NE-LK/34	New Territories Exempted House (NTEH) (Small House)	7.3.2003	A1, A2, A3 & A9
A/NE-LK/43	Proposed New Territories Exempted House (NTEH) (Small House)	24.9.2004	A1, A2, A3 & A9
A/NE-LK/45	House (New Territories Exempted House (NTEH) - Small House)	19.5.2006	A2, A3, A10 & A11
A/NE-LK/50	Proposed House (New Territories Exempted House (NTEH) - Small House)	9.3.2007	A2, A3, A5 & A12
A/NE-LK/52	Proposed House (New Territories Exempted House (NTEH) - Small House)	23.3.2007	A2, A3, A4 & A5
A/NE-LK/55	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	5.3.2010	A2, A3, A5 & A6
A/NE-LK/57	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6
A/NE-LK/58	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6

A/NE-LK/59	Proposed House (New Territories Exempted House - Small House)	30.7.2010	A2, A3, A5 & A6
A/NE-LK/64	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/65	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/66	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/67	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A2, A3, A5 & A6
A/NE-LK/73 <sup>2,3</sup>	Proposed 2 Houses (New Territories Exempted Houses - Small Houses)	15.6.2012	A2, A3, A5, A6 & A13
A/NE-LK/77 <sup>4</sup>	Proposed House (New Territories Exempted House - Small House)	1.3.2013	A2, A3 & A5
A/NE-LK/79	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	19.7.2013	A3, A5 & A7
A/NE-LK/83	Proposed House (New Territories Exempted House - Small House)	9.5.2014	A2, A3, A5 & A8
A/NE-LK/84	Proposed House (New Territories Exempted House - Small House)	9.5.2014	A2, A3, A5 & A8
A/NE-LK/85	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/86	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/88	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/89	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8

A/NE-LK/90	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/91	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A3, A5 & A8
A/NE-LK/94	Proposed House (New Territories Exempted House - Small House)	16.1.2015	A2, A3, A5 & A8
A/NE-LK/95	Proposed House (New Territories Exempted House - Small House)	16.1.2015	A2, A3, A5 & A8
A/NE-LK/106 <sup>2</sup>	Proposed House (New Territories Exempted House - Small House)	23.12.2016	A3, A5 & A8
A/NE-LK/107 <sup>3</sup>	Proposed House (New Territories Exempted House - Small House)	23.12.2016	A3, A5 & A8
A/NE-LK/109 <sup>1</sup>	Proposed House (New Territories Exempted House - Small House)	10.11.2017	A2, A3, A5 & A8
A/NE-LK/111 <sup>4</sup>	Proposed House (New Territories Exempted House - Small House)	16.3.2018	A5 & A8

**Remarks**

\*1: The application no. A/NE-LK/30 involves the same site as the application no. A/NE-LK/109

\*2: The application no. A/NE-LK/73 involves the same site as the application no. A/NE-LK/106

\*3: The application no. A/NE-LK/73 involves the same site as the application no. A/NE-LK/107

\*4: The application no. A/NE-LK/77 involves the same site as the application no. A/NE-LK/111

**Approval Conditions:**

A1 The provision of drainage facilities

A2 The submission and implementation of landscaping proposals

A3 The commencement clause

A4 The design and provision of firefighting access, water supplies for firefighting and fire service installations

A5 The submission and implementation of drainage proposals

- A6 The provision of firefighting access, water supplies for firefighting and fire service installations
- A7 The submission and implementation of tree preservation and landscape proposals
- A8 The provision of septic tank
- A9 The provision of fire services installations
- A10 The provision of fire fighting access to the site
- A11 The design and provision of drainage facilities
- A12 The design and provision of fire-fighting access, water supplies and fire service installations
- A13 The setting back of the application site boundary to avoid encroaching onto the land requirement area under the 'Feasibility Study of Review of Drainage Master Plans in Yuen Long and North District'

**Rejected Applications**

<b><u>Application No.</u></b>	<b><u>Uses/ Development</u></b>	<b><u>Date of Consideration</u></b>	<b><u>Rejection Reasons</u></b>
A/NE-LK/92	Proposed House (New Territories Exempted House - Small House)	17.10.2014	R1 – R5
A/NE-LK/93	Proposed House (New Territories Exempted House - Small House)	17.10.2014	R1 – R5

**Rejection Reasons:**

- R1 The proposed development was not in line with the planning intention of the "Agriculture" zone in the Luk Keng and Wo Hang area which was 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 was no strong planning justification in the submission for a departure from the planning intention.
- R2 The proposed development was not in line with the planning intention of the "Green Belt" ("GB") zone in the Luk Keng and Wo Hang area which was primarily for defining

the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention.

- R3 The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories and Town Planning Board Guidelines No. 10 on 'Application for Development within "GB" Zone under Section 16 of the Town Planning Ordinance' in that the proposed development would involve clearance of vegetation and would affect the existing natural landscape on the surrounding environment.
- R4 Land was still available within the "Village Type Development" zone of Ma Tseuk Leng where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services.
- R5 The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area.



## **Detailed Comments from Relevant Government Departments**

### **1. Land Administration**

Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the footprint of the proposed Small House falls entirely within the ‘VE’ of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Wo Tong Kong;
- (b) the applicant claimed himself to be an indigenous villager of Ma Tseuk Leng of Sha Tau Kok Heung and was eligible to apply for Small House grant;
- (c) the Site is not covered by any Modification of Tenancy/Building Licence;
- (d) the numbers of outstanding Small House applications and the numbers of 10-year Small House demand for the villages concerned are as follows:

<u>Villages</u>	<u>No. of the outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
Sheung Ma Tseuk Leng	56	50
Ha Ma Tseuk Leng		65
Shek Kiu Tau	6	380

\*The figures of the 10-year Small House demand forecast were provided by the relevant Indigenous Inhabitant Representatives without any supporting evidence and his office is not in a position to verify the forecasts; and

- (e) the Small House application was made to his office on 19.3.2012 and was approved in principle in July 2016. The Building Licence has not yet been issued.

### **2. Traffic**

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

- (a) she has reservation on the 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; and
- (b) notwithstanding the above, the application only involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.

### **3. Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) she has no objection to the application;
- (b) the proposed Small House falls outside Water Gathering Ground (WGG). There is no

existing public sewer in the vicinity of the Site. In view of the Site is outside WGG and the scale of the proposed development, the application alone is unlikely to cause pollution to the nearby stream;

- (c) the septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”, in particular the requirement for clearance distance from streams, and are duly certified by an Authorized Person; and
- (d) regarding the potential construction stage water pollution, it is subject to statutory control under the relevant pollution control legislation such as Water Pollution Control Ordinance. The applicant is reminded to strictly observe the ordinances and exercise proper site management practice to avoid any pollution during construction stage.

#### **4. Landscape**

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

- (a) she has no objection to the application from the landscape planning perspective;
- (b) the Site is the subject of an approved application No. A/NE-LK/80 which she had no objection from the landscape planning perspective. The current application is seeking planning permission to amend the site layout by allowing a distance of not less than 3m between the Small House and nearby stream. The amended layout will increase the buffer between the Small House and no landscape resource will be affected; and
- (c) if the application is approved, the approval condition on submission and implementation of landscape proposal is recommended.

#### **5. Drainage**

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

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) the Site is in an area where no public sewerage connection is available;
- (d) the Site is in vicinity of an existing stream course. The applicant shall be required to place all the proposed works 3m away from the top of the bank of the stream course. All the proposed works in the vicinity of the stream course should not create any adverse drainage impacts both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to his satisfaction; and
- (e) the applicant is reminded to minimise the possible adverse environmental impacts on the existing stream course in his design and during construction.

## **6. Fire Safety**

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

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

## **7. Water Supply**

Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend the inside services to nearest suitable Government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

## **8. Agriculture and Nature Conservation**

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

- (a) she does not support the application from the agriculture point of view;
- (b) the Site is abandoned land overgrown with vegetation. Agricultural activities in the vicinity are active and agricultural infrastructures such as footpath and water supply are available. The Site possess high potential for agricultural rehabilitation;
- (c) she has reservation on the application from nature conservation point of view; and
- (d) there is a natural to semi-natural stream with trees growing in its riparian areas is in close proximity (located to the northeast) to the Site. The proposed development including site formation works may cause potential adverse impact on the stream.

## **9. District Officer's Comments**

Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Council (NDC) member of subject constituency, the Indigenous Inhabitant Representative of Ma Tseuk Leng Sheung Village and the Resident Representative of Ma Tseuk Leng Sheung Village have no comment on the application.

## **10. Demand and Supply of Small House Site**

According to DLO/N, LandsD's records, the total number of outstanding Small House applications for Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster is 62 while the 10-year Small House demand forecast for the same village cluster is 495\*. According to the latest estimate by PlanD, a total of about 2.42 ha (equivalent to 96 Small House sites) of land are available within the "V" zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster for Small House development (**Plan A-2b**). There is insufficient land in the "V" zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster to meet the future demand of Small Houses (i.e. about 13.9 ha which is equivalent to 557 Small House sites).

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\* The number of outstanding Small House application and the number of 10-year Small House demand forecast for Ma Tseuk Leng and Ma Tseuk Leng San Uk Ha are 56 and 115 respectively, whereas that for Shek Kiu Tau are 6 and 380 respectively.

**Recommended Advisory Clauses**

- (a) to note the comments of CE/C, WSD that for provision of water supply to the development, the applicant may need to extend the inside services to 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 should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (b) to note the comments of D of FS that the applicant should observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (c) to note the comments of CE/MN, DSD on the following:
  - (i) the Site is in an area where no public sewerage connection is available;
  - (ii) the Site is in vicinity of an existing stream course. The applicant shall be required to place all the proposed works 3m away from the top of the bank of the stream course. All the proposed works in the vicinity of the stream course should not create any adverse drainage impacts both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to his satisfaction; and
  - (iii) the applicant is reminded to minimise the possible adverse environmental impacts on the existing stream course in his design and during construction.
- (d) to note the advice of DEP on the following:
  - (i) septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department", in particular the requirement for clearance distance from streams, and are duly certified by an Authorized Person; and
  - (ii) regarding the potential construction stage water pollution, it is subject to statutory control under the relevant pollution control legislation such as Water Pollution Control Ordinance. The applicant is reminded to strictly observe the ordinances and exercise proper site management practice to avoid any pollution during construction stage; and
- (e) to note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.