

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 Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-LYT/535 ^{*1}	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A1, A2 & A4
A/NE-LYT/536 ^{*2}	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A1 – A3
A/NE-LYT/537 ^{*3}	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A1 – A3

Remarks:

- *1 Previous case of application no. A/NE- LYT/659 only
- *2 Previous case of application no. A/NE- LYT/660 only
- *3 Previous case of application no. A/NE- LYT/661 only

Approval Conditions:

- A1 The commencement clause
- A2 The submission and implementation of a drainage proposal
- A3 The submission and implementation of tree preservation and landscape proposals
- A4 The submission and implementation of the landscape proposals

**Similar S.16 Applications for Proposed House (New Territories Exempted House - Small House)
in the vicinity of the application site within/partly within the “Agriculture” zone
in the Lung Yeuk Tau and Kwan Tei Area**

Approved Applications

<u>Application No.</u>	<u>Uses/ Development</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
A/NE-LYT/257* ¹	Proposed 5 New Territories Exempted Houses (NTEHs) (Small Houses)	25.4.2003	A1, A2 & A8
A/NE-LYT/275* ¹	Proposed New Territories Exempted House (NTEH) (Small House)	28.5.2004	A1, A2 & A8
A/NE-LYT/327* ²	Proposed House (New Territories Exempted House) (NTEH) (Small House)	28.4.2006	A2, A3, A4 & A8
A/NE-LYT/342	Proposed House (New Territories Exempted House (NTEH) – Small House)	3.11.2006	A2, A5 & A8
A/NE-LYT/343	Proposed House (New Territories Exempted House (NTEH) – Small House)	3.11.2006	A2, A5 & A8
A/NE-LYT/373	Proposed House (New Territories Exempted House - Small House)	9.5.2008	A5, A6, A7 & A8
A/NE-LYT/374	Proposed House (New Territories Exempted House - Small House)	23.5.2008	A5, A6, A7 & A8
A/NE-LYT/376	Proposed House (New Territories Exempted House (NTEH) – Small House)	6.6.2008	A5, A6, A7 & A8
A/NE-LYT/378	Proposed 2 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)	20.6.2008	A2, A5, A6 & A8
A/NE-LYT/379	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	1.8.2008	A2, A5, A6 & A8
A/NE-LYT/391	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	17.4.2009	A2, A5, A6 & A8
A/NE-LYT/404* ³	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	23.10.2009	A2, A5, A6 & A8
A/NE-LYT/437	Proposed 11 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)	8.7.2011	A5, A7, A8 & A10

A/NE-LYT/451	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A2, A5, A8 & A10
A/NE-LYT/452	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A2, A5, A8 & A10
A/NE-LYT/463	Proposed House (New Territories Exempted House - Small House)	15.6.2012	A2, A5, A8 & A10
A/NE-LYT/464	Proposed House (New Territories Exempted House - Small House)	15.6.2012	A2, A5, A8 & A10
A/NE-LYT/472 ^{*4, *5}	Proposed 3 Houses (New Territories Exempted Houses - Small Houses)	15.6.2012	A2, A5, A8 & A10
A/NE-LYT/489 ^{*6}	Proposed House (New Territories Exempted House - Small House)	7.9.2012	A2, A5, A8 & A10
A/NE-LYT/497	Proposed House (New Territories Exempted House - Small House)	8.2.2013	A5, A7 & A8
A/NE-LYT/518	Proposed House (New Territories Exempted House - Small House)	22.11.2013	A2, A5 & A8
A/NE-LYT/519	Proposed House (New Territories Exempted House - Small House)	22.11.2013	A2, A5 & A8
A/NE-LYT/520	Proposed House (New Territories Exempted House - Small House)	22.11.2013	A2, A5 & A8
A/NE-LYT/529	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A5, A7 & A8
A/NE-LYT/530	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8
A/NE-LYT/531	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A5, A7 & A8
A/NE-LYT/532	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8
A/NE-LYT/533	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8
A/NE-LYT/534	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8

A/NE-LYT/535 ^{*7}	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8
A/NE-LYT/536 ^{*8}	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A5, A7 & A8
A/NE-LYT/537 ^{*9}	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A5, A7 & A8
A/NE-LYT/538	Proposed House (New Territories Exempted House - Small House)	25.4.2014	A2, A5, A8 & A9
A/NE-LYT/539	Proposed House (New Territories Exempted House - Small House)	25.4.2014	A2, A5, A8 & A9
A/NE-LYT/540	Proposed House (New Territories Exempted House - Small House)	9.5.2014	A2, A5, A8 & A9
A/NE-LYT/547 ^{*3}	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	26.9.2014	A2, A5, A8 & A9
A/NE-LYT/550 ^{*2}	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A5, A8 & A9
A/NE-LYT/558	Proposed House (New Territories Exempted House - Small House)	16.1.2015	A5, A7, A8 & A9
A/NE-LYT/561 ^{*4}	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	8.5.2015	A2, A5, A8 & A9
A/NE-LYT/579	Proposed House (New Territories Exempted House - Small House)	6.11.2015	A2, A5 & A8
A/NE-LYT/580	Proposed House (New Territories Exempted House - Small House)	6.11.2015	A2, A5, A8 & A9
A/NE-LYT/581	Proposed House (New Territories Exempted House - Small House)	6.11.2015	A2, A5, A8 & A9
A/NE-LYT/584	Proposed House (New Territories Exempted House - Small House)	22.1.2016	A5, A7, A8 & A9
A/NE-LYT/585	Proposed House (New Territories Exempted House - Small House)	22.1.2016	A2, A5, A8 & A9
A/NE-LYT/589	Proposed House (New Territories Exempted House - Small House)	5.2.2016	A2, A5, A8 & A9
A/NE-LYT/597 ^{*5}	Proposed House (New Territories Exempted House - Small House)	15.7.2016	A2, A5, A8 & A9

A/NE-LYT/635*6	Proposed House (New Territories Exempted House - Small House)	22.9.2017	A2, A5, A8 & A9
A/NE-LYT/648	Proposed House (New Territories Exempted House - Small House)	18.5.2018	A2, A5, A8 & A9
A/NE-LYT/649	Proposed House (New Territories Exempted House - Small House)	18.5.2018	A2, A5, A8 & A9

Remarks

- *1: The application nos. A/NE-LYT/257 and A/NE-LYT/275 involve the same site
- *2: The application nos. A/NE-LYT/327 and A/NE-LYT/550 involve the same site
- *3: The application nos. A/NE-LYT/404 and A/NE-LYT/547 involve the same site
- *4: The application nos. A/NE-LYT/472 and A/NE-LYT/561 involve the same site
- *5: The application nos. A/NE-LYT/472 and A/NE-LYT/597 involve the same site
- *6: The application nos. A/NE-LYT/489 and A/NE-LYT/635 involve the same site
- *7: The application no. A/NE-LYT/535 is one of the similar cases for application nos. A/NE-LYT/660 to 661
- *8: The application no. A/NE-LYT/536 is one of the similar cases for application nos. A/NE-LYT/659 and 661
- *9: The application no. A/NE-LYT/537 is one of the similar cases for application nos. A/NE-LYT/659 to 660

Approval Conditions:

- A1 The provision of drainage facilities
- A2 The submission and implementation of landscaping proposals
- A3 The provision of street fire hydrant within 100m from the site
- A4 The design and provision of drainage facilities
- A5 The submission and implementation of drainage proposals
- A6 The design and provision of firefighting access, water supplies for fire fighting and fire service installations
- A7 The submission and implementation of tree preservation and landscaping proposals
- A8 The commencement clause
- A9 The provision of septic tank

A10 The provision of fire-fighting access, water supplies for fire-fighting and fire service installations

Rejected Application

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-LYT/267	New Territories Exempted House (NTEH) (Small House)	19.9.2003	R1, R2 & R3

Rejection Reasons:

- R1 The proposed Small House development did not comply with the interim criteria for assessing planning application for New Territories Exempted House/Small House development as the application site was outside both the village 'environs' and "Village Type Development" zone of surrounding villages
- R2 The use under application was not in line with the planning intention of the "Agriculture" zone which was to retain and safeguard good agricultural land for agricultural purposes, to retain fallow arable land with good potential for rehabilitation and to encourage the re-cultivation of good arable land
- R3 The approval of the application would set an undesirable precedent for other similar applications

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) the Sites fall entirely within the village ‘environs’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen;
- (b) the applicants claim themselves to be indigenous villagers of Fanling Village of Fanling Heung but their eligibility for Small House concessionary grants are yet to be ascertained;
- (c) the Sites are not covered by any Modification of Tenancy / Building License;
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand forecast for Ma Mei Ha Leng Tsui (2014 to 2023) are 27 and 110 respectively, whereas the number of outstanding Small House applications and the number of 10-year Small House demand forecast for Leng Pei Tsuen (2017 to 2026) are 17 and 22 respectively. 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;
- (e) the Small House grant applications in respect of the Sites were received by his office on 15.2.2013; and
- (f) if the track and footpath within the Sites of applications No. A/NE-LYT/659 and 661 respectively (**Plan A-2a**) are affected by the proposed developments, his office may consider if necessary and appropriate to include a clause to ensure that free passage on the portions of the track and footpath is to be provided at all times within the Sites, should the Small House grant applications be approved.

2. Traffic

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

- (a) she has reservation on the applications. Such type of 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 undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the applications involve construction of three Small Houses. She considers that the applications can be tolerated unless they are rejected on other grounds.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollutions; and
- (b) 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" and are duly certified by an Authorized Person.

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 applications from the landscape planning perspective;
- (b) the Sites are located in an area of rural landscape character which predominantly comprises village houses, farmlands and tree groups. The proposed Small Houses are not incompatible with the surrounding environment. The Sites are either vacant or covered with wild grasses. No significant vegetation or trees are found within the Sites. Significant landscape impact arising from the developments is not expected; and
- (c) should approval be given by the Board, an approval condition on the 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 applications from the public drainage viewpoint;
- (b) should the applications be approved, a condition should be included to request the applicants to submit and implement a drainage proposal for the Sites to ensure that they will not cause adverse drainage impact to the adjacent area; and
- (c) the Sites are in an area where no public sewerage connection is available.

6. **Fire Safety**

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

- (a) he has no in-principle objection to the applications; and
- (b) the applicants are 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 applications; and
- (b) for provision of water supply to the developments, the applicants may need to extend the inside services to nearest suitable Government water mains for connection. The applicants 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**

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

active agricultural activities are found in the vicinity of the Sites and agricultural infrastructure such as road access and water source is available. The applications are not supported from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.

9. **District Officer's Comments**

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

- (a) he has consulted the locals regarding the applications. The Chairman of Fanling District Rural Committee has no comment on the applications while the Indigenous Inhabitant Representative and the Resident Representative of Leng Tsui object to the applications; and
- (b) the track and footpath within the Sites of applications No. A/NE-LYT/659 and 661 respectively are not constructed and maintained by his office.

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

According to DLO/N's records, the total number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 44 while the 10-year Small House demand forecast for the same village cluster is 132*. According to the latest estimate by PlanD, about 1.01 ha (equivalent to about 40 Small House sites) of land are available within the "V" zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster. There is insufficient land in the "V" zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster to meet the demand of Small Houses (i.e. about 4.4 ha of land which is equivalent to 176 Small House sites).

* The number of outstanding Small House applications and the number of 10-year Small House demand forecast for Ma Mei Ha Leng Tsui (2014 to 2023) are 27 and 110 respectively, whereas that for Leng Pei Tsuen (2017 to 2026) are 17 and 22 respectively.

Recommended Advisory Clauses

For application No. A/NE-LYT/659

- (a) to note the comments of DLO/N, LandsD that if the track within the Site (**Plan A-2a**) is affected by the proposed development, his office may consider as if necessary and appropriate to include a clause to ensure that free passage on the portion of the footpath is to be provided at all times within the Site, should the Small House grant application be approved;
- (b) 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;
- (c) 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;
- (d) to note the comments of CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (e) to note the advice of DEP that 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" and are duly certified by an Authorized Person; and
- (f) 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.

For application No. A/NE-LYT/660

- (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 that the Site is in an area where no public sewerage connection is available;
- (d) to note the advice of DEP that 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" and are duly certified by an Authorized Person; 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.

For application No. A/NE-LYT/661

- (a) to note the comments of DLO/N, LandsD that if the footpath within the Site (**Plan A-2a**) is affected by the proposed development, his office may consider as if necessary and appropriate to include a clause to ensure that free passage on the portion of the footpath is to be provided at all times within the Site, should the Small House grant application be approved;
- (b) 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;
- (c) 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;
- (d) to note the comments of CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (e) to note the advice of DEP that 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" and are duly certified by an Authorized Person; and
- (f) 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.