

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

Rejected Application

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/DPA/NE-LYT/43	Proposed Small House	19.3.1993	R1 - R6

Rejection Reasons

- R1 The proposed development was not in line with the planning intention for the area which was to allow for development proposals that would have insignificant adverse impacts on the environment, traffic and drainage of the areas or would include appropriate measures to mitigate such impacts to an acceptable level.
- R2 Land suitable for small house development had been provided within the "Village Type Development" zone to the south of the application site.
- R3 The proposed built-over area within the application site was excessive.
- R4 No proposals on sewage treatment and disposal facilities had been included in the submission.
- R5 No proposals on the provision of drainage facilities had been included in the submission.
- R6 No details of landscape proposals had been included in the submission.

Approved Application

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/DPA/NE-LYT/68	Proposed Small House	15.10.1993	A1 - A4

Approval Conditions

- A1 The provision of sewage treatment and disposal facilities
- A2 The provision of drainage facilities
- A3 The provision of landscape planting
- A4 The commencement clause

Similar S.16 Applications for Proposed House (NTEH - Small House)
partly within/within the "Agriculture" zone in the vicinity of the Site in the
Lung Yeuk Tau and Kwan Tei South Area

Approved Applications

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/NE-LYT/213	Proposed New Territories Exempted House (NTEH) (Small House)	24.11.2001	A1 - A4
A/NE-LYT/225	Proposed New Territories Exempted House (NTEH) (Small House)	21.9.2001	A1 - A4
A/NE-LYT/227	Proposed New Territories Exempted House (NTEH) (Small House)	7.12.2001	A1 - A3
A/NE-LYT/247	Proposed New Territories Exempted House (NTEH) (Small House)	11.10.2002	A1 - A3
A/NE-LYT/252	Proposed New Territories Exempted House (NTEH) (Small House)	22.11.2002	A2 & A3
A/NE-LYT/286* ¹	Proposed New Territories Exempted House (NTEH) (Small House)	10.09.2004	A1 - A3
A/NE-LYT/289* ²	Proposed New Territories Exempted House (NTEH) (Small House)	3.12.2004	A1 - A3
A/NE-LYT/294	Proposed New Territories Exempted House (NTEH) (Small House)	28.1.2005	A1 - A3
A/NE-LYT/304* ³	Proposed 2 New Territories Exempted Houses (NTEH) (Small House)	27.5.2005	A2, A3, A5 & A8
A/NE-LYT/306	Proposed 2 New Territories Exempted Houses (NTEH) (Small House)	24.6.2005	A1 - A3 & A5
A/NE-LYT/309	Proposed New Territories Exempted House (Small House)	28.10.2005	A2, A3 & A6
A/NE-LYT/310	Proposed New Territories Exempted House (Small House)	28.10.2005	A2, A3 & A6
A/NE-LYT/311	Proposed New Territories Exempted House (Small House)	28.10.2005	A2, A3 & A6
A/NE-LYT/312	Proposed New Territories Exempted House (Small House)	28.10.2005	A2, A3 & A6
A/NE-LYT/316	Proposed New Territories Exempted House (Small House)	13.1.2006	A2, A3 & A6

A/NE-LYT/332	Proposed House (New Territories Exempted House (NTEH)-Small House)	16.6.2006	A2, A3 & A7
A/NE-LYT/333	Proposed House (New Territories Exempted House (NTEH)-Small House)	7.7.2006	A2, A3 & A6
A/NE-LYT/334	Proposed House (New Territories Exempted House (NTEH)-Small House)	7.7.2006	A2, A3 & A6
A/NE-LYT/363	Proposed House (New Territories Exempted House (NTEH)-Small House)	14.9.2007	A2, A3, A8 & A9
A/NE-LYT/364	Proposed House (New Territories Exempted House (NTEH)-Small House)	14.9.2007	A2, A3, A8 & A9
A/NE-LYT/365	Proposed House (New Territories Exempted House (NTEH)-Small House)	14.9.2007	A2, A3, A8 & A9
A/NE-LYT/366 ^{*4}	Proposed House (New Territories Exempted House-Small House)	28.9.2007	A2, A3 & A6
A/NE-LYT/377	Proposed 4 Houses (New Territories Exempted House (NTEH)-Small House)	20.6.2008	A2, A3, A8 & A9
A/NE-LYT/386 ^{*1}	Proposed House (New Territories Exempted House-Small House)	23.1.2009	A3, A4, A10 & A11
A/NE-LYT/411 ^{*3}	Proposed House (New Territories Exempted House (NTEH)-Small House)	12.2.2010	A2, A3, A8 & A9
A/NE-LYT/412 ^{*3}	Proposed House (New Territories Exempted House (NTEH)-Small House)	12.2.2010	A2, A3, A8 & A9
A/NE-LYT/491 ^{*2}	Proposed House (New Territories Exempted House-Small House)	5.10.2012	A2, A3, A8, A9 & A12
A/NE-LYT/492 ^{*4}	Proposed House (New Territories Exempted House-Small House)	19.10.2012	A2, A3, A8 & A9
A/NE-LYT/522	Proposed House (New Territories Exempted House-Small House)	3.1.2014	A2, A3 & A8
A/NE-LYT/523	Proposed House (New Territories Exempted House-Small House)	3.1.2014	A2, A3 & A8
A/NE-LYT/525	Proposed House (New Territories Exempted House-Small House)	17.1.2014	A2, A3 & A8
A/NE-LYT/554	Proposed House (New Territories Exempted House-Small House)	12.12.2014	A3, A8, A13

Remarks

*1: A/NE-LYT/286 and A/NE-LYT/386 are the same site

*2: A/NE-LYT/289 and A/NE-LYT/491 are the same site

*3: The site of application no. A/NE-LYT/304 includes two application sites (Nos. A/NE-LYT/411 and A/NE-LYT/412)

*4: A/NE-LYT/366 and A/NE-LYT/492 are the same site

Approval Conditions

- A1 The provision of drainage facilities
- A2 The submission and implementation of the landscaping proposals
- A3 The commencement clause
- A4 The provision of fire service installations
- A5 The design and provision of an access road or Emergency Vehicular Access
- A6 The submission and provision of drainage facilities
- A7 The design and provision of drainage facilities
- A8 The submission and implementation of drainage proposals
- A9 The provision of fire-fighting access, water supplies for fire-fighting and fire service installations
- A10 The design and provision of fire-fighting access, water supplies for fire-fighting and fire service installations
- A11 The submission and implementation of the tree preservation and landscaping proposals
- A12 The submission and implementation of diversion proposals of the water mains
- A13 The provision of septic tank

Rejected Applications

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-LYT/305	Proposed 2 New Territories Exempted Houses (NTEH) (Small House)	27.5.2005	R1, R2
A/NE-LYT/358	Proposed 5 Houses (New Territories Exempted Houses)	21.9.2007 (on review)	R3, R4
A/NE-LYT/398	Proposed New Territories Exempted House (NTEH) (Small House)	21.8.2009	R1, R4
A/NE-LYT/405	Proposed 2 Houses (New Territories Exempted Houses - Small Houses)	18.12.2009	R5, R6

Rejection Reasons

- R1 The proposed Small House development did not comply with the interim criteria for assessing planning application for NTEH/Small House development as the application site was outside both the village 'environs' and "Village Type Development" zone of the surrounding villages and there was no exceptional circumstances to merit special consideration of the application.
- R2 The approval of the application would set an undesirable precedent for other similar applications.
- R3 The proposed development was not in line with the planning intention of the "AGR" zone for the 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. There was no strong justification in the submission for a departure from the planning intention. The site fell outside an established built-up area and the proposed development was in lack of infrastructural support.
- R4 The approval of the application would set an undesirable precedent for other similar applications within the "Agriculture" zone. The cumulative impacts of approving such application would result in adverse traffic impact of the area.
- R5 The proposed development did not comply with the Interim Criteria for assessing planning application for New Territories Exempted House/Small House development (Interim Criteria) as the application site fell entirely outside the village 'environs' and mostly outside the "Village Type Development" zone of Wing Ning Wai, Wing Ning Tsuen, Tung Kok Wai, Ma Wat Tsuen, Ma Wat Wai, Tsz Tong Tsuen and Lo Wai. There was no exceptional circumstances to merit special consideration of the application.
- R6 The approval of the application, which did not comply with the Interim Criteria, would set an undesirable precedent for other similar applications in this area.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) over 50% of the Site falls entirely within the 'VE' of the Lung Yuek Tau village cluster (including Wing Ning Wai, Wing Ning Tsuen, Tung Kok Wai, Ma Wat Tsuen, Ma Wat Wai, Tsz Tong Tsuen and Lo Wai);
- (b) the applicant is an indigenous villager of Lung Yeuk Tau (Wing Ning Tusen) of Fanling Heung. His eligibility for Small House grant has yet to be ascertained;
- (c) the Site is not covered by any Modification of Tenancy/Building Licence. It is noted that the Mother Lot (i.e. 1569 S.B in D.D. 83) had been carved out into 2 parts, namely Lot 1569 S.B ss.1 and Lot 1569 S.B. RP to facilitate Small House development;
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand forecast for Lung Yuek Tau village cluster (2016 to 2025) are 174 and 925 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; and
- (e) the Small House application was made to his office on 28.2.2017.

2. Traffic

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

- (a) She has reservation on the applications. Such type of development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of development outside the "V" zone, if permitted, will set 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 only involve construction of one Small House. She considers that the applications can be tolerated unless it is 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 application alone is unlikely to cause major pollution; and
- (b) 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" 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 application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character surrounded by village houses and car parks. No significant landscape resource of high sensibility is observed within the Site. Significant adverse impact on existing landscape resources arising from the application is not anticipated; and
- (c) in consideration of the limited space within the Site, there is insufficient space for meaningful landscaping. Should the Board approve the application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

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 applicants to submit and implement a drainage proposal for each of the Sites to ensure that they will not cause adverse drainage impact to the adjacent area; and
- (c) the Site is 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 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 applications 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 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):

agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agriculture point of view.

9. District Officer's Comments

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

he has consulted the locals. The Indigenous Inhabitant Representative (IIR) of Lung Yeuk Tau supports the application. The Chairman of Fanling District Rural Committee, the Resident Representative (RR) of Lung Yeuk Tau, the IIR of Lung Yeuk Tau cum District Council member of subject constituency and the remaining IIR of Lung Yeuk Tau have no comment on the application.

10. Demand and Supply of Small House Site

According to DLO/N's records, the total number of outstanding Small House applications for Lung Yeuk Tau village cluster 174 while the 10-year Small House demand forecast for the same village cluster is 925. According to the latest estimate by PlanD, about 19.88 ha (equivalent to about 795 Small House sites) of land are available within the "V" zone of Lung Yeuk Tau village cluster. There is insufficient land in the "V" zone of Lung Yeuk Tau village cluster to meet the future demand of Small Houses (i.e. about 27.48 ha of land which is equivalent to 1,099 Small House sites).

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 applicants 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 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;
- (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 developments, the applicants 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.