

**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 Application

Approved Application

| Application No. | Uses/ Development | Date of Consideration | Approval Conditions |
|------------------------|----------------------------------------------------------------------|------------------------------|----------------------------|
| A/NE-LYT/558 | Proposed House (New Territories Exempted House (NTEH) - Small House) | 16.1.2015 | A1 - A4 |

Approval Conditions:

- A1 The submission and implementation of drainage proposals
- A2 The provision of fire-fighting access, water supplies for fire-fighting and fire service installations
- A3 The submission and implementation of tree preservation and landscape proposals
- A4 The commencement clause

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

Approved Applications

| Application No. | Uses/ Development | Date of Consideration | Approval Conditions |
|-----------------------------|-----------------------------------------------------------------------------|-----------------------|---------------------|
| 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* ¹⁸ | Proposed 11 Houses (New Territories Exempted Houses (NTEHs) - Small Houses) | 8.7.2011 | A2, A5, A8 & A10 |

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| 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 ^{*7} | Proposed House (New Territories Exempted House - Small House) | 4.4.2014 | A5, A7 & A8 |
| A/NE-LYT/530 ^{*8} | Proposed House (New Territories Exempted House - Small House) | 4.4.2014 | A2, A5 & A8 |
| A/NE-LYT/531 ^{*9} | Proposed House (New Territories Exempted House - Small House) | 4.4.2014 | A5, A7 & A8 |
| A/NE-LYT/532 ^{*10} | Proposed House (New Territories Exempted House - Small House) | 4.4.2014 | A2, A5 & A8 |
| A/NE-LYT/533 ^{*11} | Proposed House (New Territories Exempted House - Small House) | 4.4.2014 | A2, A5 & A8 |
| A/NE-LYT/534 ^{*12} | Proposed House (New Territories Exempted House - Small House) | 4.4.2014 | A2, A5 & A8 |

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| A/NE-LYT/535 ^{*13} | Proposed House (New Territories Exempted House - Small House) | 4.4.2014 | A2, A5 & A8 |
| A/NE-LYT/536 ^{*14} | Proposed House (New Territories Exempted House - Small House) | 4.4.2014 | A5, A7 & A8 |
| A/NE-LYT/537 ^{*15} | 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 ^{*16} | Proposed House (New Territories Exempted House - Small House) | 25.4.2014 | A2, A5, A8 & A9 |
| A/NE-LYT/540 ^{*17} | 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/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 |

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| 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 |
| A/NE-LYT/653 ^{*7} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5 & A8 |
| A/NE-LYT/654 ^{*8} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5 & A8 |
| A/NE-LYT/655 ^{*9} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5 & A8 |
| A/NE-LYT/656 ^{*10} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5 & A8 |
| A/NE-LYT/657 ^{*11} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5 & A8 |
| A/NE-LYT/658 ^{*12} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5 & A8 |
| A/NE-LYT/659 ^{*13} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5, A8 & A9 |
| A/NE-LYT/660 ^{*14} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5, A8 & A9 |
| A/NE-LYT/661 ^{*15} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5, A8 & A9 |
| A/NE-LYT/663 ^{*16} | Proposed House (New Territories Exempted House - Small House) | 15.6.2018 | A2, A5, A8 & A9 |
| A/NE-LYT/673 ^{*17} | Proposed House (New Territories Exempted House - Small House) | 5.10.2018 | A2, A5, A8 & A9 |
| A/NE-LYT/675 | Proposed House (New Territories Exempted House - Small House) | 19.10.2018 | A5, A8 & A9 |
| A/NE-LYT/676 | Proposed House (New Territories Exempted House - Small House) | 19.10.2018 | A2, A5, A8 & A9 |
| A/NE-LYT/703 ^{*18} | Proposed House (New Territories Exempted House - Small House) | 2.8.2019 | A5, A8 & A9 |

Remarks

- *1: The application no. A/NE-LYT/257 includes the site of application no. A/NE-LYT/275.
- *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 are at the same location but with slightly different areas
- *5: The application no. A/NE-LYT/597 involves part of the site of the application no. A/NE-LYT/472
- *6: The application nos. A/NE-LYT/489 and A/NE-LYT/635 involve the same site
- *7: The application nos. A/NE-LYT/529 and A/NE-LYT/653 involve the same site
- *8: The application nos. A/NE-LYT/530 and A/NE-LYT/654 involve the same site
- *9: The application nos. A/NE-LYT/531 and A/NE-LYT/655 involve the same site
- *10: The application nos. A/NE-LYT/532 and A/NE-LYT/656 involve the same site
- *11: The application nos. A/NE-LYT/533 and A/NE-LYT/657 involve the same site
- *12: The application nos. A/NE-LYT/534 and A/NE-LYT/658 involve the same site
- *13: The application nos. A/NE-LYT/535 and A/NE-LYT/659 involve the same site
- *14: The application nos. A/NE-LYT/536 and A/NE-LYT/660 involve the same site
- *15: The application nos. A/NE-LYT/537 and A/NE-LYT/661 involve the same site
- *16: The application nos. A/NE-LYT/539 and A/NE-LYT/663 involve the same site
- *17: The application nos. A/NE-LYT/540 and A/NE-LYT/673 involve the same site
- *18: The application nos. A/NE-LYT/437 and A/NE-LYT/703 and the rejected application no. A/NE-LYT/424 involve the same site

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 Applications

| 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 |
| A/NE-LYT/424 | Proposed 11 Houses (New Territories Exempted Houses) | 16.7.2010 | R2, R4 & R5 |

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
- R4 The application site fell within the village ‘environs’ (‘VE’) of Ma Mei Ha, Ma Mei Ha Leng Tsui and Leng Pei Tsuen and land within ‘VE’ or “Village Type Development” zone for recognized New Territories villages should be primarily reserved for Small House development by indigenous villagers.

R5 The approval of the application would set an undesirable precedent for similar applications within "AGR" zone in future. The cumulative impact of approving such application would result in further loss of agricultural land in the area.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) more than 50% of the footprint of the proposed Small House falls within the 'VE' of Ma Mei Ha Leng Tsui and Leng Pei Tsuen;
- (b) the applicant of the proposed Small House is an indigenous villager of Fanling Village of Fanling Heung. The Small House application has been approved in August 2018 and pending the execution of Building Licence;
- (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> |
|---------------------|--------------------------------------------------------|-------------------------------------------|
| Ma Mei Ha Leng Tsui | 27 | 110 |
| Leng Pei Tsuen | 18 | 22 |

*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 24.4.2013.

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 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 application only involve 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) in view of the small scale of the proposed development, 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 farmland. The Site is covered by wild grass and vegetation, existing trees of common species are found along the boundary and in close proximity to the Site. No highly sensitive landscape resource is observed within the Site. Significant adverse impact on existing landscape resources arising from the development is not anticipated; and
- (c) in consideration of limited space within the Site, there is insufficient space for meaningful landscaping, it is considered not necessary to impose a landscape condition as the effect of additional landscaping 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 the Site that it 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 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 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):

- (a) she does not support the application from the agriculture point of view; and
- (b) the Site is currently fallow land overgrown with grasses. The agricultural activities are active in the vicinity and agricultural infrastructures such as footpath and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouse, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural 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 regarding the application. The Indigenous Inhabitant Representative (IIR) of Leng Pei Tsuen supports the application as the proposed Small House can improve the environment. The Chairman of Fanling District Rural Committee and the Resident Representative (RR) of Leng Pei Tsuen indicate no comment on the application, the RR opines that the application can improve the environment.

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 45 while the 10-year Small House demand forecast for the same village is 132. According to the latest estimate by PlanD, about 0.89 ha (equivalent to about 35 Small House sites) of land are available within the "V" zone of Lei Uk Tsuen. There is insufficient land in the "V" zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen to meet the future demand of Small Houses (i.e. about 4.43 ha of land which is equivalent to 177 Small House site).

Recommended Advisory Clauses

- (a) to note the comments of Chief Engineer/Construction, Water Supplies Department (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 Director of Fire Services (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 comments of the Director of Environmental Protection (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 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.