

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/215

<u>Applicant</u>	:	Wader Seed Planting Company represented by Lanbase Surveyors Limited
<u>Site</u>	:	Lots 23, 24, 25 (Part) and 26 (Part) in D.D. 38 and Lot 803 in D.D. 46 and Adjoining Government Land (GL), Man Uk Pin, New Territories
<u>Site Area</u>	:	About 2,326m ² (including about 180m ² of GL, or about 8% of the Site)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Open Storage of Construction Machinery, Planters and Landscaping Materials with Ancillary Site Office and Associated Filling of Land for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction machinery, planters and landscaping materials with ancillary site office and associated filling of land for a period of three years at the application site (the Site) which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years, and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is paved and vacant.
- 1.2 The Site is accessible via a local access road leading to Sha Tau Kok Road – Wo Hang (**Plan A-2**). According to the applicant, the proposed use comprises four single-storey structures (3m in height) with a total floor area of about 249.24m², including three structures for site office with a total floor area of about 234.24m² and a transformer room with a floor area of about 15m². About 1,235m² of the Site (about 53%) will be used for open storage of construction machinery, planters and landscaping materials. Two private car parking spaces and a loading/ unloading (L/UL) space for light goods vehicles (LGVs) will be provided at the Site. The applicant also applies for regularisation of filling of land for the entire Site with concrete of about 0.2m in depth for site formation purpose. The operation hours of the proposed use are 24 hours daily including public holidays, and the applicant advises that L/UL activities will only be carried out between 7am to 11pm from Mondays to Saturdays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 According to the applicant, satisfactory vehicle manoeuvring space will be provided at the Site. To ensure pedestrian safety, sensor alarm and indication light will be provided at the entrance of the Site.
- 1.4 The Site is the subject of four previous planning applications including one application No. A/NE-MUP/192 for proposed temporary open storage of planters and landscaping materials and site office submitted by the same applicant as the current application involving a slightly larger site which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.12.2023. Details of the previous applications are set out in paragraph 5 below. A comparison of the major development parameters between the current application and application No. A/NE-MUP/192 is set out below:

Major Development Parameters	Previous Application (No. A/NE-MUP/192) (a)	Current Application (No. A/NE-MUP/215) (b)	Difference (b) – (a)
Proposed Use	Proposed Temporary Open Storage of Planters and Landscaping Materials and Site Office for a Period of Three Years	Proposed Temporary Open Storage of Construction Machinery, Planters and Landscaping Materials with Ancillary Site Office and Associated Filling of Land for a Period of Three Years	Addition of open storage of construction machinery and filling of land
Site Area (about)	2,436m ²	2,326m ²	-110m ² (-5%)
No. of Structures	3	4	+1
Total Floor Area (about)	478m ²	249.24m ²	-228.76m ² (-48%)
No. of Storeys	1-2	1	-
Building Height (about)	6m to 6.5m	3m	- 3 to 3.5m (-50% to -54%)
No. of Private Car Parking Space	2	2	-
No. of L/UL Space for LGVs	1	1	-

- 1.5 In support of the application, the applicant has submitted the following document:

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| (a) Application Form with attachments received on 23.4.2025 | (Appendix I) |
| (b) Further Information (FI) received on 6.6.2025 [#] | (Appendix Ia) |
| (c) FI received on 12.6.2025 [#] | (Appendix Ib) |

[#]accepted and exempted from publication and recounting requirements

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib** and summarised below:

- (a) approval of the application on a temporary basis will not prejudice the future long-term planning of the area;

- (b) the Site falls within the Category 2 areas under the Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G), and the proposed use is in line with the Guidelines;
- (c) the Site is the subject of an approved previous application No. A/NE-MUP/192 for temporary open storage of planters and landscaping materials. Given that there is no major change in planning circumstances, the proposed use under the current application should be approved. The submission of the current application serves to change the proposed use to meet the applicant's operation needs; and
- (d) the surrounding areas of the Site are generally occupied with open storage yards. The proposed use is considered compatible with the surrounding uses. There is also an approved application for temporary logistics centre located next to the Site. No adverse drainage, environmental and traffic impacts are anticipated.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by publishing notices in local newspapers and sending notice to Sha Tau Kok District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion within the Site, TPB PG-No. 31B is not applicable.

4. Background

The Site was the subject of a planning enforcement case against an unauthorized development (UD) involving storage use. An Enforcement Notice (EN) was issued on 5.10.2020. Subsequent site inspection revealed that the UD had been discontinued and the Site had been reinstated. Compliance Notices for the EN and Reinstatement Notice were issued on 13.2.2023 and 14.2.2023 respectively.

5. Town Planning Board Guideline

TPB PG-No. 13G promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Applications

- 6.1 The Site, in part or in whole, is the subject of four previous applications (No. A/NE-MUP/55, 148, 192 and 193). Applications No. A/NE-MUP/55 for land filling for permitted agricultural use (plant nursery) and No. A/NE-MUP/193 for proposed temporary logistics centre cover only a small portion of the northern part of the Site. The former was rejected by the Committee in 2008 and the latter was approved with conditions in 2024. Application No. A/NE-MUP/148 for proposed temporary wholesale trade (fruit and vegetable market) was rejected by the Committee in 2020. The planning considerations of these applications are not applicable to the current application which involves a different

use.

- 6.2 The remaining application No. A/NE-MUP/192 for proposed temporary open storage of planters and landscaping materials and site office for a period of three years submitted by the same applicant as the current application involving a slightly larger site was approved with conditions by the Committee on 22.12.2023 mainly on the considerations that the proposed use was considered not incompatible with the surrounding environment; and the site fell within the Category 2 areas and the application generally complied with TPB PG-No. 13G in that there was no major adverse departmental comment or the concerns of the departments could be addressed by relevant approval conditions. The planning permission is valid until 22.12.2026.
- 6.3 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Application

- 7.1 There was a similar application (No. A/NE-MUP/207) for proposed temporary open storage of construction materials with ancillary facilities for a period of three years and associated filling of land within another “AGR” zone in the vicinity of the Site in the past five years. The application was approved with conditions by the Committee on 4.10.2024 mainly on the planning considerations similar to those mentioned in paragraph 6.2 above, and that the application was to facilitate the relocation of business operation affected by government project and had obtained policy support.
- 7.2 Details of the similar application are summarised at **Appendix IV** and its location is shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 8.1 The Site is:
- (a) paved and vacant; and
 - (b) accessible via a local access road leading to Sha Tau Kok Road – Wo Hang.
- 8.2 The surrounding areas are of rural character mainly comprising warehouses, storage yards, residential dwellings, and active and fallow agricultural land.

9. Planning Intention

- 9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices V** and **VI** respectively.

10.2 The following government departments object to/ do not support the application:

Land Administration

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

- (a) he objects to the application;
- (b) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via GL is granted to the Site;
- (c) the following irregularity covered by the subject planning application has been detected by his office:

unlawful occupation of GL adjoining the said private lots covered by the planning application

the GL within the Site (about 180m² as mentioned in the Application Form) has been fenced off without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28. LandsD objects to the planning application since there is illegal occupation of GL which regularisation would not be considered according to the prevailing land policy. The lot owners should immediately cease the illegal occupation of GL as demanded by LandsD. His office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice. Inclusion of the concerned GL may block the existing access of other users;

- (d) the following irregularity not covered by the subject planning application has been detected by his office:

unauthorised structure within the said private lots not covered by the planning application

there is an unauthorised structure within Lots 25 and 26 in D.D. 38 not covered by the subject planning application. The lot owners should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (e) the lot owners/applicant shall either (i) remove the unauthorised structure on the said private lots not covered by the planning application and cease the illegal occupation of the GL immediately or (ii) include the

unauthorised structure in the subject planning application for the further consideration by the relevant departments and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid required, apply to his office for Short Term Waiver (STW) to permit the structures erected\to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be on whole lot basis subject to such terms and conditions including the payment of back-dated waiver fee from the first date when the unauthorized structure was erected and administrative fee as considered appropriate by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owners for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered;

- (f) unless and until the cessation of the unlawful occupation of GL and the unauthorised structure is duly rectified by the lot owners/applicant or entirely included in the subject planning application, his office objects to the application which must be brought to the attention of the Board when they consider the application; and
- (g) his advisory comments are at **Appendix VI**.

Agriculture

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

the Site falls within the “AGR” zone and is generally vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed use is not supported from agricultural perspective.

11. Public Comments Received During Statutory Publication Period

On 2.5.2025, the application was published for public inspection. During the statutory public inspection period, five comments were received (**Appendix VII**). Three comments from the residents of Loi Tung east, Kadoorie Farm & Botanic Garden Corporation (KFBG) and an individual object to the application mainly on the grounds that the proposed use is not in line with the planning intention of “AGR” zone; the Site and its surrounding area are subject to alleged UD and filling of land; the proposed use would induce adverse drainage impact; and approval of the application will convert arable land to brownfield. KFBG also provides views that the Board should consider whether the Site falls into one of the proposed Agricultural Priority Areas (APAs), and whether the proposed use would cause potential impact on the APA. The remaining two comments from a member of the North District Council and the Chairman of Lung Shan Area Committee indicate no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of construction machinery, planters and landscaping materials with ancillary site office and associated filling of land for a period of three years at the Site zoned “AGR” on the OZP. The proposed use is not in line with the planning intention of the “AGR” zone, which is 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. DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessments below, there is no objection to the proposed use with associated filling of land on temporary basis of three years.
- 12.2 The application involves regularisation of filling of land for the entire Site with concrete of about 0.2m in depth for site formation purpose. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and the Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives respectively. As the Site is zoned “AGR”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.
- 12.3 The Site is situated in an area of rural character mainly comprising warehouses, storage yards, residential dwellings, and active and fallow agricultural land. The Chief Town Planning/Urban Design and Landscape of Planning Department has no adverse comment on the application from the landscape planning perspective, and considers that significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed use is not anticipated.
- 12.4 The Site falls within the Category 2 areas under the TPB PG-No. 13G. The application generally complies with the TPB PG-No. 13G in that relevant government departments consulted, including the Commissioner for Transport, CE/MN, DSD, DEP, Chief Highway Engineer/New Territories East of Highways Department and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of the concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Regarding DLO/N, LandsD’s concern on the unauthorised structures erected outside the Site and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 12.5 The Site is the subject of a previous application No. A/NE-MUP/192 submitted by the same applicant as the current application for proposed temporary open storage use approved in 2023 based on the considerations set out in paragraph 6.2 above. The scale, nature and use of the current application are similar to the approved application No. A/NE-MUP/192. There was also a similar application (No. A/NE-MUP/207) within another “AGR” zone in the vicinity of the Site approved in 2024. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 Regarding the public comments as detailed in paragraph 11, the government departments’ comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 20.6.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.12.2025;
- (b) in relation to (a) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.3.2026;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.8.2025;
- (e) the submission of a fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.12.2025;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.3.2026;
- (g) if the above planning condition (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (h) if any of the above planning condition (a), (b), (d), (e) or (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (i) upon the expiry of the planning permission, the reinstatement of the application site, including the removal of fill materials and hard paving, and grassing of the application site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use with associated filling of land is not in line with the planning intention of the "AGR" zone which is 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 is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with Attachment received on 23.4.2025
Appendix Ia	FI received on 6.6.2025
Appendix Ib	FI received on 12.6.2025
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous Applications
Appendix IV	Similar Application
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Unmanned Aerial Vehicle Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2025**