

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/20

- Applicant** : Win Sense (China) Limited represented by Mr. WONG Sun-wo William
- Site** : Lot 268 S.A in D.D. 80 and Adjoining Government Land, Lin Ma Hang Road, Ta Kwu Ling North, New Territories
- Site Area** : 1,052 m² (about) (including Government land of about 220 m²)
- Land Lease** : Block Government lease (demised for agricultural use)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Recycling Centre for Scrap Metal and Stainless Steel with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary recycling centre for scrap metal and stainless steel with ancillary office for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “REC” on the approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2. According to the Notes of the OZP, temporary use not exceeding a period of three years within “REC” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for in terms of the Plan. The Site is currently largely covered by vacant structures (**Plans A-2 and A-4b**).
- 1.2 According to the applicant, the proposed development involves two structures with a total floor area of about 610 m² (**Drawing A-1**). The 1-storey recycling centre (with a floor area of about 580m² and 4.5m in height) would be used for sorting, packing and baling of scrap metals and stainless steel for recycling purpose. The 2-storey structure (with a floor area of about 30m² and 4.5m in height) located at the northeastern part of the Site near the entrance would be used as an ancillary office to the recycling centre. One private car parking space (5m x 2.5m) and one loading/ unloading space (7m x 3.5m) for light goods vehicle are provided within the Site. The Site is accessible via Lin Ma Hang Road (**Plan A-1**). The proposed operation hours are from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays. The site layout plan and drainage plan submitted by the applicant are

at **Drawings A-1 and A-2**.

1.3 In support of the application, the applicant has submitted the application form with attachments on 10.4.2019 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 9 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) the recycling centre would be used for sorting, packing and baling of scrap metals and stainless steel into one cubic metre for exporting to Mainland for recycling purpose; and
- (b) the Site is far away from domestic structures and there would be no adverse sewerage and noise impacts to the surrounding area.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD) advises that the Site is currently not subject to any active enforcement action. Should there be sufficient evidence to prove that the use on the Site constitutes an unauthorised development under the Town Planning Ordinance, enforcement action will be taken.

5. Previous Application

The Site is not the subject of any previous application.

6. Similar Application

There is no similar application for temporary recycling centre within the “REC” zone in the vicinity of the Site in the Ta Kwu Ling North area.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a and A-4b)

7.1 The Site:

- (a) comprises two adjoining temporary structures, including a 1-storey largely vacant temporary structure and a 2-storey converted container structure used as

office (**Plans A-4a and A-4b**); and

- (b) is accessible via Lin Ma Hang Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate northwest is an area used for storage of vehicles with a converted container located in close proximity to the Site (**Plan A-4b**);
- (b) to its further north and northwest are some unused land and fallow agricultural land; and
- (c) to its southeast and beyond are Lin Ma Hang Road and some vacant and fallow agricultural land. A vacant domestic structure is located to the southeast of the Site (**Plan A-2**).

8. Planning Intention

The planning intention of the “REC” zone in Ta Kwu Ling North area is intended primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comment of the District Lands Officer/North, Lands Department (DLO/N, LandsD)

- (a) the Site comprises private Lot 268 S.A in D.D. 80 and adjoining Government land which is an Old Schedule lot held under the Block Government lease (demised for agricultural use) without any guarantee of right of access. The applicant should make its own arrangement for acquiring access. The Government shall accept no responsibility in such arrangements, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
- (b) the actual occupied area does not tally with the Site. The existing structures on Site were erected without approval from his office and are not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the unauthorised structures;
- (c) some of the existing structures erected on Site has extended to the adjoining Government land. The extensions of these structures constitute

unauthorized occupation of Government land, which would be subject to land control actions;

- (d) the total built-over area and the numbers of the existing structures do not tally with the application; and
- (e) should the application be approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. The application for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

Traffic

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

- (a) He does not support the application from traffic engineering point of view. The applicant should provide the following information/ measures for his consideration:
 - (i) the applicant should advise the traffic generation and attraction from and to the Site and the traffic impact to the nearby road links and junctions;
 - (ii) the applicant shall justify the adequacy of the parking spaces so provided by relating to the number of vehicles visiting the Site;
 - (iii) the vehicular access should be no less than 7.3m wide;
 - (iv) the applicant shall demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site and manoeuvring within the Site;
 - (v) the applicant shall advise the management/ control measures to be implemented to ensure no queuing of vehicles outside the Site; and
 - (vi) adequate traffic signs should be provided to alert the public that there will be vehicles entering to and exiting from the Site.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) ~~he does not support the application as the scrap metals and stainless steel would cause dust nuisance in the vicinity and there are domestic structures in the vicinity of the Site, the closest one at about 52 m (Plan A-2) noting that major recycling activities would be carried out within the covered~~

area at the Site, he has no adverse comment on the application;

- (b) there was one environmental complaint against waste at the Site received in early 2019 mainly for illegal storage of chemical waste and employment of illegal workers; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Landscape

9.1.4 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) based on the aerial photo of 2017, the site is situated in an area of rural landscape character surrounded by temporary structures and clustered tree groups. The site is mainly hard paved with no significant vegetation observed. Significant adverse impact arising from the temporary use under the application on existing landscape resources is not anticipated; and
- (c) since there is no major public frontage along the site boundary, it is considered not necessary to impose a landscape condition should the TPB approve the application, as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Agriculture

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

- the Site is paved and she has no comment on the application from nature conservation point of view.

Drainage

9.1.6 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, an approval condition to request the applicant to submit and implement a drainage proposal for the Site is recommended to ensure that the proposed development 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.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) there is no record of approval by the Building Authority (BA) for the buildings/ structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application; and
- (b) the applicant should be reminded of the followings:
 - (i) if the existing structures are erected on leased land without approval of the BD, they are unauthorized under the BO and should not designated for any approved use under the application;
 - (ii) before any new building works are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Buildings Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
 - (iii) for UBW erected on leased land, enforcement action may be taken by BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
 - (iv) the temporary converted containers for site office/ storage are considered as temporary buildings and are subject to control under the Building (Planning) Regulations Pt. VII;
 - (v) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulations respectively;
 - (vi) if the Site does not abut on a specified street having a width not less than 4.5m wide, its development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage; and
 - (vii) detailed comments under the BO will be provided at building plan submission stage.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to satisfaction of his department;

- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. In addition, the applicant should be also advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

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

- (a) he has no objection to the application;
- (b) existing water mains inside the Site will be affected (**Plan A-2**). The applicant should be advised to either divert or protect the water mains found on Site. His detailed comments are at **Appendix III**; and
- (c) for provision of water supply to the development, the applicant may need to extend his/her inside services to the 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 shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Project Interface

9.1.10 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- as part of the proposed vehicular access of the Site will fall within the project limit of the PWP Item No. 6584TH "Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang", the applicant is not allowed to construct any fence/ gate/ other facilities there obstructing the future road widening works. Nevertheless, major constraints to the project is not anticipated and he has no adverse comment on the application.

District Officer's Comments

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

- (a) he has consulted the locals regarding the application. The 1st Vice-Chairman of Ta Kwu Ling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Heung Yuen Wai object to the application mainly on the grounds

that the proposed development is not in line with the planning intention of “REC” zone; potential adverse environmental, visual, traffic and sewage impacts to the surrounding area; the proposed development would create nuisances and pose safety risk to villagers; the Site is close to the North East New Territories (NENT) Landfill Site in the south of Heung Yuen Wai Village which has already created significant nuisance to the villagers; should occupation of Government land is required, the proposed development should be located at specific locations; the proposed development would affect the fung shui of the Permitted Burial Ground located to the northwest of the Site; and

- (b) the incumbent North District Council (NDC) member of the subject constituency has no comment on the application.

9.2 The following Government departments have no comment on / no objection to the application:

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Division Commander (Ta Kwu Ling), Hong Kong Police Force (DVC TKLDIV, HKPF).

10. Public Comments Received During Statutory Publication Period

On 23.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, five public comments were received (**Appendix II**). The Chairmen of Sheung Shui District Rural Committee indicates no comment on the application while three public comments from villagers of Heung Yuen Wai Village and an individual object to the application mainly on the grounds that it is a ‘destroy first, apply later’ case; the vicinity of the Site is vegetated and mostly unspoiled; the proposed use would create environmental nuisance to the surrounding area; and the other adverse comments similar to those conveyed by DO(N) in paragraph 9.1.11.

11. Planning Considerations and Assessments

11.1 The application is for a proposed temporary recycling centre with ancillary office in an area zoned “REC” on the OZP (**Plan A-1**). The proposed development is not in line with the planning intention of the “REC” zone which is intended primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission. The applicant has not provided strong planning justifications in the submission to merit a departure from the planning intention of the “REC” zone, even on a temporary basis.

- 11.2 The Site is situated in an area of rural landscape character surrounded by temporary structures, clustered tree groups and some fallow agricultural land. The site is mainly hard paved with no significant vegetation observed. Significant adverse impact arising from the proposed temporary use under the application on existing landscape resources is not anticipated. CTP/UD&L, PlanD has no objection to the application from landscape planning point of view since there is no major public frontage along the site boundary.
- 11.3 Nevertheless, C for T does not support the application as the applicant has not provided information on the estimated traffic flow, justifications for the proposed parking spaces, relevant satisfactory management/ control measures, traffic arrangement and vehicle manouvering within the Site and provision and management of pedestrian facilities. As such, the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding area. ~~DEP does not support the application as the scrap metals and stainless steel would cause dust nuisance in the vicinity and there are domestic structures in the vicinity of the Site, the closest one at about 52 m (Plan A-2). The applicant has not submitted any information to demonstrate that the proposed development would not cause adverse environmental impacts on surrounding areas.~~ Approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area. Other relevant Government departments consulted, including CHE/NTE of HyD, DAFC, *DEP*, D of FS, CE/MN of DSD and CE/C of WSD, have no adverse comment on / no objection to the application.
- 11.4 Regarding the adverse public comments as detailed in paragraph 10 and the local objections conveyed by DO(N) in paragraph 9.1.11 above, the relevant Government departments' comments and the planning assessment above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10 above, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the "Recreation" zone, which is intended primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
 - (b) the applicant fails to demonstrate in the submission that the proposed development would not cause adverse traffic impact on the surrounding areas; and
 - (c) the approval of the application would set an undesirable precedent for similar applications within the same "Recreation" zone. The cumulative effect of approving such applications would result in a general degradation of the

environment of the area.

12.2 Alternatively, 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 3 years until **31.5.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m. from Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the submission of 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 30.11.2019;
- (d) in relation to (c) 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 29.2.2020;
- (e) the submission of proposals for fire service installations and water supplies for firefighting 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 30.11.2019;
- (f) in relation to (e) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 29.2.2020;
- (g) the submission of traffic impact assessment within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 30.11.2019;
- (h) in relation to (g) above, the implementation of traffic management measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 29.2.2020;
- (i) if any of the above planning conditions (a) or (b) 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; and
- (j) if any of the above planning conditions (c), (d), (e), (f), (g) or (h) 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.

Advisory Clauses

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

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form with Attachments received on 10.4.2019
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2019**