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By Email and Post

Date : 30 September 2025

Your Ref.: TPB/A/STT/26

Our Ref. : LDS/PLAN/7108

Secretary
Town Planning Board
15/F, North Point Government Offices
333 Java Road, North Point, Hong Kong

Dear Sir/Madam,

**Application for Planning Permission for
Proposed Filling of Ponds for Permitted Innovation and Technology Hub (including
Permitted Cargo Handling and Forwarding Facilities, Creative Industries, Eating Place,
Flat (Staff Quarters only), Industrial Use, Information Technology and
Telecommunications Industries, Office, Public Utility Installation, Research, Design and
Development Centre, Shop and Services, Warehouse (excluding Dangerous Goods
Godown)) at Lot No. 764 RP (Part) in D.D.99, San Tin, Yuen Long, N.T.**
(Application No. A/STT/26)

We refer to the captioned application and submit herewith our response to the public comments for your reference.

In response to comments from the relevant Government departments, the Applicant has recently appointed consultants to prepare the technical assessments. We will submit our responses and the technical assessment once they are ready.

Should there be any queries, please contact our Ms. Cannis Lee or Mr. Jeremy Poon at [REDACTED]

Yours faithfully,
For and on behalf of
Lawson David & Sung Surveyors Limited





Encl.

c.c. DPO/FSS&YLE (Attn.: Ms. Karen Chan) – By Email only
Client

Your Assets for Growth

**The Applicant's Response to Objections raised in respect of
Application No.A/STT/26 for Lot 764RP in DD 99**

1. Upon instruction, in this response, the Applicant would only deal with and address the following objections:-

- (a) Mr. Man Whi Chung;
- (b) Mr. Man Kwok Tong;
- (c) Mr. Man Lee Keung;
- (d) Mr. Tsui Sai Wing of '*Upwing Motors Service Company*';

to the present application lodged by the Applicant ('*the Application*').

2. To achieve clarity, the Applicant proposes to deal with and address the following issues raised by the objectors in the order as they appear.

The objections of (a) Man Whi Chung (b) Mr. Man Kwok Tong and (c) Mr. Man Lee Keung

- (A) Locus standi to object to the right of the Applicant and the Wui in dealing with the latter's land

3. Whilst the said Man Whi Chung and the said Man Kwok Tong are members of the Wui, the said Man Lee Keung has never been a member of the Wui. This is self-evidence from the 1993, 2018 and 2024 *Lists of Members* filed by the Wui with the '*Tso Tong Branch (祖堂科)*' of the District Office, Yuen Long for the past 3 decades (see **Annexures 1, 2 & 3**).

4. Neither the said '*Kuen Ping Tso (權平祖)*' (of which the said Man Lee Keung claimed to be a member) being a member of the Wui. The said '*Kuen Ping Tso (權平祖)*', if exist, has never been registered as a tso or t'ong within the meaning of s.15, **New Territories Ordinance** and neither has it been the owner of *any* land in the New Territories. It is not a *legal entity* recognized within the ambit of the New Territories Ordinance.

5. Given that the said land lot has, since 1898, been registered in the name of the Wui pursuant to the now **s.15, New Territories Ordinance**, even on the assumption that these 3 objectors were members of the Wui, the right of the Wui to deal with its land lot would have, upon registration since 1898, been *vested* solely in its managers to the exclusion of *all* its members.

6. This issue of law has been the subject matter of a long line of judicial authorities, resting in the following latest judgment on the point:-

“18. Under the NTO regime, the power to deal with Tso property is conferred solely on the managers and no one else, and that they shall act unanimously. As observed by Chu J (as Chu JA then was) in Tang Kam Wah & Ors v Tang Ming Yat & Anor (unreported, HCA 10141/1998, 26 November 2002) at §72:

*‘Under Section 15, the power of dealing with Tso land, **including the granting of a lease**, is vested in the manager. Accordingly in exercising the power to let, the manager being trustees are required to act unanimously: Lewin on Trust (17th edn) p.737. The consent of only one manager from each of the two Tsos in question is insufficient to make the Lease a valid and binding one. It also follows that **the unanimous decision of managers cannot be overridden by the decision of the members of Tso** because under Section 15, the power to deal with Tso property is conferred solely on the managers and no one else: per Litton JA (as he then was) in Light Ocean Investments Ltd, at p.40. This being the case, even if the defendants were to succeed in proving the existence of the Pledged Custom, the Lease remains invalid and unenforceable by reason by Section 15.’”*

(see **Ng Chung Ying, Dayas v. Tang Man Kit & Anr. HCMP 1439/2021**, judgment delivered on 29.7.2022 as **Annexure 4**).

7. It is submitted that the right to deal with its own land vests in the Wui and to the exclusion of all its members even should all of them hold a different view.

(B) There was no replacement of manager after the death of Man Yung Kwai (文容貴), a manager during his lifetime, and the Applicant’s tenancy (‘the 2023 Tenancy’) is null and void on the ground that neither the said Man Yung Kwai (文容貴) nor his replacement endorse the 2023 Tenancy

8. This issue was raised by the said Man Whi Chung as a ground to challenge the *authority* of the managers to deal with the said land lot inclusive of the Wui's granting the 2023 Tenancy to the Applicant. In his objection, the said Man Whi Chung further alleged that he was the *tenant* of the Wui.

9. Firstly, on the issue as to whether, upon the death of the said Man Yung Kwai (文容貴), the surviving managers' authority to deal with the Wui's land has been judicially determined some 3 decades ago when the Court of Appeal ruled that the office of a deceased manager would automatically vacate upon his death (see **Chan Choy Fong v. Secretary for Home Affairs [1998] 1 HKLRD 431 as Annexure 5**). Hence, it is not necessary for the office of the Man Yung Kwai (文容貴) to be cancelled or replaced.

10. Secondly, this necessarily follows that the 2023 Tenancy granted by the surviving managers of the Wui would be valid and binding upon the Wui.

11. In fact, upon his attention being drawn to the Court of Appeal judgment, the Registrar of Lands duly registered the 2023 Tenancy with the Land Register as an instrument affecting interest in land under the provisions of the **Land Registration Ordinance** (see an updated land search record, as **Annexure 6**).

(C) The said Man Whi Chung is the *lawful tenant* of, inter alia, the said land lot

12. Whilst the said Man Whi Chung alleged to be '*...the lawful tenant of the Application Site...*' and, on that basis, he asserted that he has never been notified or consulted on the Application, it is submitted that this is a bold allegation having regard to his claim as a tenant having been judicially determined against him.

13. In **DCCJ 3616 of 2024**, the said Man Whi Chung, acted as a witness for the defendants therein, (by deposing upon in his own affirmation with documentary evidence in support) to defend the action taken out by the Applicant (as the plaintiff therein) seeking possession of part of the said land lot then in occupation pursuant to a subtenancy allegedly granted by him/ Fortune Nine (HK) Ltd. to the defendants. In his affirmation evidence, the said Man Whi Chung claimed to be the tenant of the Wui pursuant to the 1986 Tenancy (as extended) granted to, inter alia, his late father (as 1 of 4 tenants).

14. After considering the merits (or otherwise) of the claim of the said Man Whi Chung, His Honour Judge Harold Leong dismissed his following claims:-

- (a) that the Wui had extended the 1986 Tenancy in his favour;
- (b) that, his best case being a *tenant-at-will*, which has been terminated upon the Wui granting the 2023 Tenancy to the Application on 23.6.2023.

And, upon his said findings, His Honour Judge Harold Leong granted summary judgment in favour of the Applicant and against the defendants therein with damages to be assessed and costs (see **Kenwell Limited v. Liu Kin Kwan, Gary & Lam Tat Chow (both trading under the name of style of 昌盛公司 a firm)** [2024] HKDC 352 as Annexure 7).

15. The application by the defendants in **DCCJ 3616 of 2024** for leave to appeal to the Court of Appeal against the said judgment was also, after hearing argument on both side, refused (see **Kenwell Limited v. Liu Kin Kwan, Gary & Lam Tat Chow (both trading under the name of style of 昌盛公司 a firm)** [2025] HKDC 528 as Annexure 8).

(D) The Application was not supported by a *valid consent* from the Wui

16. The basis of the said Man Whi Chung's allegation rests upon his claims that:-

- (a) there has been no *replacement* of the office of the said Man Yung Kwai (文容貴) after his death;
- (b) the 2023 Tenancy was *invalid*; and
- (c) he has the lawful tenant of the Wui but has never been notified or consulted for the Application.

17. Shortly after the grant of the 2023 Tenancy, the Wui has, by a *written authorization* of 29.6.2023, authorized the Application to do all acts as may be necessary, inclusive of applying to the government departments for change of use of the Wui's land (see **Annexure 9**), which would be sufficiently wide enough to cover the Applicant's present Application leaving aside the fact that *as a tenant*, under the 2023 Tenancy, the Applicant is entitled to do so consequential upon any change of the permitted user of the said land lot as the intended user (i.e. IT) would be a *lawful* and *permissive* use under the 2023 Tenancy as consistent with those permitted under the relevant Outline Zoning Plan.

(E) The impact of HCA 80 of 2025

18. **HCA 80 of 2025** was an action taken out by 5 plaintiffs one of which being the said Man Kwok Tong and, therein, the only relief sought being a declaratory relief to restrain the existing managers from proceeding with election and appointment of a manager for the Wui (see the General Endorsement of Claim, **Annexure 10**). So far, no Statement of Claim has been filed by the said Man Kwok Tong, despite the lapse of time required for such purpose.

19. Since commencement of **HCA 80 of 2025**, 4 out of the 5 plaintiffs have dropped out of the action and the said Man Kwok Tong being the remaining plaintiff continuing with his claim (see the Consent Order as **Annexure 11**).

20. The managers, as defendants therein, are actively defending the claim of the said Man Kwok Tong and an application has been made by them to set aside the interim injunction order which is pending for hearing in late August 2025.

21. The dispute raised in **HCA 80 of 2025** is irrelevant to any of the issues calling for determination in the Application herein.

(F) The government has refused to release the compensation money payable to the Wui upon resumption of part of Lot 764RP in 1996

22. Whilst it is correct that, despite resumption of part of the said land lot in 1996, the Lands Department has, on various grounds, failed to pay the Wui the compensation money for its resumption.

23. This forms the subject matter of the Wui's claim in **HCMP 2321 of 2024** which is pending for hearing in the High Court (see the Originating Summons as **Annexure 12**).

24. The dispute between the Lands Department and the Wui is irrelevant to the Application.

(G) The impact of the claims of members of the ‘4 Wais (四圍)’ asserting 24 Dam (擔) of interest in Lot 764RP on top of the existing 47.97 Dam (擔) of members of the Wui

25. It is correct that, consequential upon claims, by **HCMP 1041 of 2024**, the Wui, through its surviving managers, took out an Originating Summons seeking the High Court to determine the *total share of interest* in the Wui (see the Originating Summons as **Annexure 13**).

26. This application is in active progress and still pending for trial in the High Court.

27. However, none of the issues raised in the Originating Summons is relevant to the present Application.

The objections of (g) Mr. Tsui Sai Wing of ‘Upwing Motors Service Company’ (a firm)

28. The allegation that he is a *tenant* of the Wui holding a ‘*valid tenancy*’ from the said Fortune Nine (HK) Ltd. is self-defeating as, at best, he could only be a *subtenant* of part of the said land lot holding an alleged subtenancy granted by the said Fortune Nine (HK) Ltd. to him.

29. The validity of his tenancy (of the Wui) as claimed by the said Man Whi Chung/Fortune Nine (HK) Ltd. has been judicially determined against such claim in **DCCJ 3616 of 2024** after a hearing on the merits when His Honour Judge Harold Leong considered, inter alia, the affirmation evidence of the said Man Whi Chung filed in that action.

30. The invalidity of the tenancy of the said Man Whi Chung/Fortune Nine (HK) Ltd. as held by the learned District Court Judge has rendered all subtenancies granted by them (inclusive of that of the said Tsui Sai Wing) as null and void.

31. It is submitted that the position of the said Tsui Sai Wing is indistinguishable from that of the defendants in **DCCJ 3616 of 2024**.

32. The said Tsui Sai Wing is also the defendant in **HCA1039 of 2025** (see the Specially Endorsed Writ of Summons as **Annexure 14**) in which the Applicant, is the plaintiff therein, when the Applicant sought summary judgment against the said Tsui Sai Wing for possession of part of the said land lot in his occupation which is scheduled to be heard in due course.

33. It is necessary to draw attention of the Town Planning Board that, as a result of a number of legal proceedings (both in the High Court and in the District Court) in which persons claimed to be tenants or subtenants of the Wui, asserting entitlement to possess the land lots of the Wui (inclusive of the said land lot, the Applicant, as plaintiffs in these legal proceedings has, on divers occasions and upon applications, obtained final judgment for possession against those alleged tenants and subtenants. Insofar as those claimed to be subtenants, they all claimed to be the subtenants of the said Man Whi Chung/Fortune Nine (HK) Ltd. (see copies of these sealed judgments or orders collectively as **Annexure 15**).

34. In any event, it is submitted that the said Tsui Sai Wing has no *locus standi* to ground his objection as:-

- (a) the area in his occupation (as identified in the schedule to the Statement of Claim in **HCA 1039 of 2025**) does not form part of the subject matter of the Application; and
- (b) the said Tsui Sai Wing has no *interest* (directly or indirectly) in that part of the said land lot subject to the Application.

Dated this 28th day of July 2025.

K.M. Chong
Counsel for the Applicant


Samuel Chow Solicitors
Solicitors for the Applicant