LegCo Members' meeting with Councillors of Heung Yee Kuk on 29 October 2002

Impact of the Town Planning Ordinance and environmental policies on the interests of land owners

(a) Concerns raised by Councillors of HYK at the above meeting—

(i) HYK attached great importance to the above subject and had been followed up the subject with the Administration for many years. Councillors of HYK hoped that LegCo Members would urge the Administration to announce its concrete environmental and conservation policies as early as possible.

(ii) Apart from setting up a Special Committee on Compensation and Betterment chaired by Mr John TODD to study the issues of compensation and betterment related to planning and development, the Administration had not followed up the issue of compensation for private land owners proactively since the enactment of the Town Planning (Amendment) Bill in 1991.

(iii) At a meeting of HYK, the former Secretary for Planning, Lands and Works had informed HYK that the issue of compensation for private land owners involved a considerable amount of money. HYK could not accept that cost to Government should be a reason for refusing to offer compensation. They considered that the Administration lacked the commitment to resolving the question of cost implications for implementing environmental policies on private land owners. The Administration should deal with the issue of compensation on the basis of equity. As environmental protection was a territory-wide issue, the associated cost should be borne by the whole community, and not by a certain sector. It was the Government's responsibility to shoulder part of the cost for conserving the environment.

(iv) When the Town Planning (Amendment) Bill was introduced in 1991, the Administration decided to put aside the question of compensation and proceeded with other proposals in the Amendment Bill given the imminent need to pass the Bill. The existing Town Planning Ordinance (Cap. 131) therefore did not have any provisions

dealing with compensation. However, subsequent to the enactment of the Town Planning (Amendment) Bill, numerous restrictions had been imposed on the use of agricultural land for the purpose of environmental protection and conservation. While appreciating the need to pass the Bill as a matter of urgency, Councillors of HYK considered that it was not unreasonable to press for a review of the issue of compensation after 10 years' time. They strongly urged that the Administration should expedite the introduction of relevant legislative proposals on the compensation issue as the tolerance of the affected land owners had reached its limit.

(v) HYK queried the need and effectiveness of the existing planning policy to restrict the use of agricultural land. Some Councillors of HYK said that vast amount of private land had been restricted from development for the protection of wetland. They doubted the effectiveness of the conservation policy as mass and rapid development was being carried out on the other side of the wetland in Shenzhen. Some green groups had also pointed out that the existing environmental protection and conservation policies were inadequate.

(vi) In replying to an enquiry from HYK, the former Secretary for Planning, Environment and Lands had stated that about 5% of private land use was frozen for the protection of the ecological environment in Hong Kong. According to HYK, most of the affected private land was in Tai Po. For instance, building of small houses was prohibited in the private land in the vicinity of Lam Tsuen water catchment area. To address the housing needs of indigenous residents in the area, the Administration had recently agreed to expand the building zone for a further eight hectares, although the original plan was 30 hectares. However, when the plan was gazetted, some green groups raised strong objection as they were worried that the proposal would set a precedent for further lifting of restrictions on land use. Councillors of HYK urged that LegCo Members should strike a balance between the need for environmental conservation and the interests of indigenous villagers when studying the issue.

(b) Response of LegCo Members at the meeting—

(i) A LegCo Member pointed out that the issue of compensation had been under discussion for over 10 years. The most thorny issue was how to set up a fair compensation mechanism for the affected land owners. The Member was of the view that the question of compensation should be studied together with betterment if the

restrictions on land use were to be lifted, although it would complicate the issue.

(ii) A LegCo Member considered that the concept of betterment was put forward in the report of the Special Committee chaired by Mr John TODD, but it had never been implemented. The Member said that to uphold the principle of equity, compensation for land owners whose original rights were affected should be dealt with separately from the question of betterment.

(iii) LegCo Members agreed that the issue of compensation should be followed up. Although the Town Planning (Amendment) Bill listed in the Legislative Programme for 2002-2003 session would not cover the compensation issue, the Administration had been urged to brief the Panel on Planning, Lands and Works as soon as possible on other proposals related to town planning which it intended to introduce at a later stage.

(iv) LegCo Members informed Councillors of HYK that the subject of "Relationship between planning, environmental protection, conservation policies and safeguarding the right of private ownership of property" had already been included in the list of outstanding items for discussion by the Panel on Planning, Lands and Works. The Panel could consider holding meeting(s) with the Panel on Environmental Affairs, if necessary.