

**Bills Committee on Town Planning (Amendment) Bill 2003**  
**Summary of concerns/views raised by organizations – the Administration's Response (items 8 and 23 only)**  
**(as at 27 November 2003)**

	Subject	Organization	Concern / view	Administration's response
8.	Proposal to confer CE in C with discretion to accept or discard proposed amendments by TPB  Clause 11 Section 9(1A)	TPB  CEx APC  LBAC	Consider it important for CE in C to take into account planning implications of partially accepting any of the proposed amendments by TPB.  Concern on the rationale for the proposal and whether decisions made by CE in Council are subject to judicial review.  Concern that no time limit has been set for the CE in Council to consider plan or amendments of plans.	The Bill is intended to clarify the role of the CE in C as the final authority for approving a draft plan. This is the present situation. Being the final plan approving authority, the CE in C has the power to approve the draft plan without amendment or subject to some or all of the amendments proposed by the TPB to meet representations. The CE in C would be provided with all the relevant documents and a full account of planning implications taken into consideration by the TPB when proposing amendments to meet representations. To ensure that the CE in C would not be unduly involved in the formulation of detailed planning proposals, or take a decision that would bypass the representation consideration process, the CE in C cannot make any amendments to the draft plan other than those proposed by the TPB.  The provision to allow flexibility for the CE in C to approve some of the amendments proposed by the TPB instead of referring the whole plan to the TPB for further consideration and amendment would avoid delay in development in relation to those representation sites for which the CE in C has agreed to the amendments proposed by the TPB.

	Subject	Organization	Concern / view	Administration's response
		<p>REDA (in response to LC Paper No. CB(1)2527/02-03 provided by the Administration)</p>	<p>Consider the Administration's response misleading. The following concerns are raised:</p> <ul style="list-style-type: none"> <li>- the proposal provides CE in C with a power to arbitrarily over-ride TPB's decision, bypassing the public consultation process;</li> <li>- the proposal provides the CE in C with a function in the plan making process which is currently the TPB's responsibility; and</li> <li>- the proposal may cause delay and uncertainty in the plan making process as there is no time limit for CE in C to make a decision on the draft plan.</li> </ul>	<p>The new s.9(1A) is based on the premise that the CE in C is the final plan-approving authority in the plan-making process, which has been the legislative intent since the enactment of the Town Planning Ordinance (the Ordinance) in 1939. The TPB is the authority for preparing plans upon the directive of the Chief Executive (CE). The proposal in the current Bill is simply to provide flexibility to the CE in C as an approving authority of plans without fundamentally changing the roles of the TPB and the CE in C.</p> <p>In considering whether to approve the proposed amendments, the CE in C is obliged to take into account all the documents submitted to it, including the representations and comments, papers and minutes prepared for the hearing and TPB's decisions. There is no basis to suggest that the CE in C's decision would be <i>arbitrary</i>.</p> <p>Under the Bill, the CE in C is not empowered to make any amendments other than those proposed by the TPB. This will ensure that the CE in C would not take a decision that will by-pass the public consultation process or TPB's hearing process.</p>

	Subject	Organization	Concern / view	Administration's response
				<p>In the event that the CE in C decides not to approve some of the amendments proposed by the TPB, the TPB may review its proposals in the light of CE in C's decision and consider whether to propose further amendment to the plan. The CE in C would not actually be involved in the process of formulating detailed planning proposals.</p> <p>As mentioned above, the CE in C will normally consider plans within a short period of time. It is unlikely that the proposal in the Bill would cause delay and uncertainty in the plan-making process.</p>