



**DEVELOPMENT CONTROL IN SABAH:
A CRITICAL ANALYSIS AND SUGGESTIONS
FOR REFORMS**

BY

NOOR SUZILAWATI BT RABE

**A thesis submitted in fulfilment of the requirement
for the degree of Master of Science in Built
Environment**

**Kulliyyah of Architecture and Environmental Design
International Islamic University
Malaysia**

FEBRUARY 2011

ABSTRACT

Development control is a legal procedure that has provided local authorities with the jurisdiction responsibility to translate ideas and policies of town and country planning into reality. It is also a process which consists of both the making of development plans and the practice of development control by local planning authorities. The processes included preparing and implement that plan through development plans, granting or refusing planning permission in their areas. In general, this research studies the development control system in Sabah in general and specific focus is given on the planning application and planning approval process. The research analyses the current practice of development control in the state, the factors influencing local authority's decision making process as well issues and problems faced by the current implementation of planning application process. The methods used to collect the data were interview surveys, content analysis, semi-structured questionnaire survey and focus groups discussion. The results of the survey were further analyzed by conducting cross-tabulation, chi-square and also spearman tests. It was found out that the planning application and approval process among local authority in Sabah is similar. However, there are very small differences on the administration procedure depending on the needs and locality. From these inferences, the existing planning application and planning approval process in the state are similar to planning application and planning approval process in Peninsular Malaysia.

ملخص البحث

تطوير الرقابة هو الإجراء القانوني الذي قدمته السلطات المحلية مع مسؤولية الولاية لترجمة الأفكار والسياسات والتخطيط من بلدة بلد إلى واقع. وهي أيضا العملية التي تتكون من جعل كل من خطط التنمية وممارسة التحكم في التنمية من جانب السلطات المحلية للتخطيط. وشملت عمليات إعداد وتنفيذ تلك الخطة من خلال خطط التنمية، أو رفض منح إذن التخطيط في مناطقهم. في العام ، ويتم منح هذه البحوث والدراسات في تطوير نظام التحكم في الصباح في التركيز العامة والخاصة على تطبيق التخطيط وتخطيط عملية الموافقة. التحليلات بحوث الممارسة الحالية المتمثلة في التحكم في التنمية في الدولة، والعوامل المؤثرة في عملية السلطة المحلية اتخاذ القرارات، وكذلك القضايا والمشاكل التي تواجهها في التنفيذ الجاري للتخطيط عملية التطبيق. وكانت الطرق المستخدمة لجمع بيانات المسوح المقابلة، تحليل المحتوى، وشبه منظم الاستبيان وتركز النقاش المجموعات. وحللت كذلك بنتائج المسح عن طريق إجراء عبر جدول، تشي مربع، وكذلك اختبارات سبيرمان. وقد تبين أن تطبيق عملية التخطيط والموافقة عليها بين السلطة المحلية في الصباح مشابه. ومع ذلك، هناك اختلافات صغيرة جدا على إجراء الإدارة تبعا لاحتياجات والمكان. من هذه الاستنتاجات، وتطبيق التخطيط القائمة والتخطيط لعملية الموافقة في حالة مماثلة لتطبيق تخطيط وتنظيم عملية القبول في شبه جزيرة ماليزيا.

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Science in Built Environment.

.....
Azila Ahmad Sarkawi
Supervisor

.....
Mariana Mohammed Osman
Co-Supervisor

I certify that I have read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Science in Built Environment.

.....
Mansor Ibrahim
Internal Examiner

I certify that I have read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Science in Built Environment.

.....
Ainul Jaria Maidin
External Examiner

This thesis was submitted to the Department of Urban and Regional Planning and is accepted as a fulfillment of the requirement for the degree of Master of Science in Built Environment.

.....
Rustam Khairi Zahari
Head, Department of Urban and
Regional Planning

This thesis was submitted to the Kulliyyah of Architecture and Environmental Design and is accepted as a fulfillment of the requirement for the degree of Master of Science in Built Environment.

.....
Khairuddin Abdul Rashid
Dean, Kulliyyah of Architecture
and Environmental Design

DECLARATION

I hereby declare that this thesis is the result of my own investigation, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Noor Suzilawati bt. Rabe

Signature

Date

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

**DECLARATION OF COPYRIGHT AND AFFIRMATION
OF FAIR USE OF UNPUBLISHED RESEARCH**

Copyright © 2011 by Noor Suzilawati bt. Rabe. All rights reserved.

**DEVELOPMENT CONTROL IN SABAH:
A CRITICAL ANALYSIS AND SUGGESTIONS FOR REFORMS**

No part of this unpublished research may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without prior written permission of the copyright holder except as provided below.

1. Any material contained in or derived from this unpublished research may be used by others in their writing with due acknowledgement.
2. IIUM or its library will have the right to make and transmit copies (print or electronic) for institutional and academic purposes.
3. The IIUM will have the right to make, store in a retrieval system and supply copies of this unpublished research if requested by other universities and research libraries.

Affirmed by Noor Suzilawati bt. Rabe.

.....
Signature

.....
Date

To whom I love...

ACKNOWLEDGEMENTS

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allah Most Beneficent Most Merciful. All the praises and thanks to Allah, the Lord of 'Alamin, and Salat (Blessing of Allah) and Salam (peace) be upon the last end of Allah's Prophets and Messengers Muhammad (p.b.u.h.)

Deepest thanks to my supervisor, Dr. Azila Ahmad Sarkawi, for her input and advice in completing this research. Thank you for your guidance. Thanks also to my co-supervisor, Dr. Mariana Mohamed Osman for giving comments, suggestions and ideas. My deepest thanks also goes to Dr. Syariah Bachok for her assistance throughout completing this thesis.

My deepest thanks also goes out to my understanding parents; my father Rabe Sadan and my mother Rohhana Ibrahim, also to my loving and loved sisters and brothers, for their prayers, patience, understanding and encouragement.

It would be impossible to acknowledge adequately all the people who have supported me along the journey to complete this thesis. To my friend and roommates; Azlin Hj. Alwi, Dayang Suhaina Saleh and Yusniliyana Yusof, only Allah SWT knows how much I feel for and owe you guys. To Muhammad Afiq and Muhammad Affandi Abd. Talib, thanks for their sincere friendship and invaluable support and to my friend Sarah Razak, my deepest thanks goes to you for spending your time checking my write-up and to Sarah Alwi, thank you for being such supportive friend. Last but not least, I would like to convey my highest appreciation to those who have involved and contributed in the preparation of this thesis, thank you so much.

.....Wassalam....

TABLE OF CONTENTS

Abstract	ii
Abstract in Arabic	iii
Approval Page	iv
Declaration Page.....	vi
Copyright Page	vii
Dedication	viii
Acknowledgements	ix
List of Tables	xiii
List of Figures	xvi
List of Maps	xvii
CHAPTER 1: INTRODUCTION	1
1.0 Introduction	1
1.1 Background of the Study	2
1.2 Overview on Historical Background of Sabah	4
1.2.1 Early Records of Sabah before the Pre-colonial Era	4
1.2.2 Sabah during the Pre-colonial Era (15 th to 17 th Century)	7
1.2.3 Sabah during the Colonial Period (18 th century to 1960s)	7
1.2.4 Formation of Malaysia in 1963 until the present	9
1.3 Development Control	12
1.4 Statement of Problems	16
1.5 Research Questions	19
1.6 Aim and Objectives of the Research	20
1.7 Significance of the Study.....	20
1.8 Scope of Study	21
1.9 Limitation of the Research	22
1.10 Structure of the Research	23
CHAPTER 2: LITERATURE REVIEW.....	25
2.0 Introduction	25
2.1 Planning Legislation Framework	26
2.1.1 Administration System in Malaysia	26
2.1.2 Planning System in Malaysia	27
2.1.2.1 Planning System at the Federal Level.....	28
2.1.2.2 Planning System at the State Level	29
2.1.2.3 Planning System at the Local Level	32
2.1.3 Administration System in Sabah	35
2.1.4 Planning System in Sabah	36
2.2 Statutory Provision	50
2.2.1 Town and Country Planning Ordinance 1950 (Sabah Cap 141)	51
2.3 Development Control process in Sabah	56
2.3.1 Planning Application Process	56

2.3.1.1	Prohibition of Development without Planning Permission	58
2.3.1.2	Basic Requirement for Planning Submission	59
2.3.1.3	Detail of Layout Plan	60
2.3.1.4	Development Plans	61
2.3.2	Decision Making Process	63
2.3.2.1	Planning Conditions	65
2.3.2.2	Material Considerations	68
2.3.2.3	Reasons for Refusal	69
2.3.3	Processing Time Frame	74
2.3.4	Appeal Board	76
2.3.5	One-Stop Centre (OSC)	77
2.3.5.1	One-Stop Centre (OSC) in Peninsular Malaysia	78
2.3.5.2	One-Stop Centre (OSC) in Sabah	81
2.4	Comparison Between Sabah and Peninsular Malaysia	83
2.5	Conclusion	86

CHAPTER 3: RESEARCH METHODOLOGY 88

3.0	Introduction	88
3.1	Preliminary Study	90
3.2	Methods of Data Collection	90
3.2.1	Literature Review	93
3.2.2	Interviews	93
3.2.3	Semi-Structured Questionnaire	95
3.2.4	Focus Group Discussion	99
3.3	Sampling Method	103
3.4	Methods of Analysis	105
3.5	Conclusion	106

CHAPTER 4: DATA ANALYSIS AND FINDINGS107

4.0	Introduction	107
4.1	Profile of Respondents	109
4.1.1	Respondents' Background	109
4.1.2	Age of Respondents	110
4.1.3	Level of Education	111
4.1.4	Experience in Planning Field	112
4.1.5	Respondents' Designation	113
4.2	Planning Submission Process	114
4.2.1	Requirement for Planning Submission	115
4.2.2	Document or Guidelines referred during Processing Planning Application	117
4.2.3	Process of Investigation	131
4.2.4	Decision Making Process	138
4.3	Planning Approval Process	148
4.3.1	Material Consideration	148
4.3.2	Planning Conditions	148
4.3.3	Reasons for Refusal	150

4.3.4	Time framework to complete planning approval	151
4.4	Issues and Problems	154
4.5	Summary of Analyses	157
4.6	Conclusion	159
 CHAPTER 5: CONCLUSION		160
5.0	Introduction	160
5.1	Summary of Findings	160
5.1.1	Document and Guidelines referred during the processing of Planning Applications	161
5.1.2	Site inspection procedure	162
5.1.3	Procedures involved in Planning Application Process according to type of Local Authority	162
5.1.4	Decision making process	163
5.1.5	Delay in decision making process due to limited manpower and knowledge	164
5.1.6	Requirements and conditions imposed by Local Authorities	164
5.2	Recommendations	166
5.2.1	Planning Document and Guidelines	167
5.2.2	Planning Submission Process	167
5.2.3	Planning Approval Process	169
5.3	Recommendations for Further Research	171
 BIBLIOGRAPHY		172
 Appendix I: Interviews Questionnaire		179
Appendix II: Semi-Structured Questionnaire		187
Appendix III: Focus Group Discussion Questionnaire		197

LIST OF TABLES

<u>Table No.</u>		<u>Page No.</u>
2.1	Federal, State and Concurrent lists	31
2.2	Distribution of Authorities in 26 May 2010	33
2.3	Planning Scheme for local areas in Sabah (2009)	41
2.4	Summary of types of Development Plans in Sabah	47
2.5	Alternatives for Processing Planning Application under the Concurrent system	75
2.6	Time framework for Decision Making Process	81
2.7	Stages and time frame of Planning Application and Approval Process	83
2.8	Comparison between Sabah and Peninsular Malaysia	84
3.1	Conceptual clusters of the units of analysis	106
4.1	Number and Types of Local Authorities Surveyed	109
4.2	Participants' Background	109
4.3	Age of Respondents (Local Authorities)	110
4.4	Age of Respondents (FGD)	110
4.5	Level of Educational (Local Authorities)	111
4.6	Level of Educational (FGD)	111
4.7	Experience in Planning Field (Local Authorities)	112
4.8	Experience in Planning Field (FGD)	112
4.9	Respondent' Designation (Local Authorities)	113
4.10	Respondent' Designation (FGD)	114
4.11	Requirements during Submission Process	116
4.12	Cross-tabulation of respondents referring to any documents and	118

their working experience in planning field

4.13	Types of planning documents used and never used by Local Authorities	120
4.14	Types of planning documents used and never used (FGD)	121
4.15	Respondents' frequency of referring and satisfaction on provision of Sabah Cap.141	122
4.16	Participants' frequency of referring and satisfaction on provision of Sabah Cap.141 (FGD)	123
4.17	Respondents' frequency of referring and satisfaction on provision of Planning Scheme / Draft Scheme	124
4.18	Respondents' frequency of referring and satisfaction on provision of Building by-laws 1984	125
4.19	Participants' frequency of referring and satisfaction on provision of Building by-laws 1984 (FGD)	126
4.20	Respondents' frequency of referring and satisfaction on provision of Local Government Ordinance 1961	126
4.21	Respondents' frequency of referring and satisfaction on provision of Local Government Ordinance 1961(FGD)	127
4.22	Respondents' frequency of referring and satisfaction on provision of OSC guidelines and checklist	128
4.23	Participants' frequency of referring and satisfaction on provision of OSC guidelines and checklist (FGD)	128
4.24	Respondents' frequency of referring and satisfaction on provision of Local Plan	129
4.25	Participants' frequency of referring and satisfaction on provision of Local Plan (FGD)	130
4.26	Summary of Planning Document referred by Local Authorities during processing planning application	131
4.27	Site inspection procedure according to type of Local Authority	132
4.28	Site inspection procedure based on Focus Group Discussion (FGD)	132
4.29	Condition of planning application that required for Site Inspection	133
4.30	Condition of planning application that required for Site Inspection (FGD)	134

4.31	Site inspection procedure according to type of Local Authority	134
4.32	Time and condition of planning application required for Site Inspection	135
4.33	Impacts or matters observed during Site Inspection	136
4.34	Impacts or matters observed during Site Inspection (FGD)	137
4.35	Planning committee for Decision Making Process	139
4.36	Planning committee for Decision Making Process (FGD)	139
4.37	Frequency of planning committee meeting at Local Authorities' area	140
4.38	Frequency of planning committee meeting at local authorities' area (FGD)	141
4.39	Pearson test for no. of submission per month with frequency of committee meeting per year	142
4.40	Involvement of developer or consultant during the committee meeting	143
4.41	Matters discuss during the planning committee meeting	145
4.42	Matters discuss during the planning committee meeting (FGD)	146
4.43	Procedure of committee meeting according to Local Authority level	147
4.44	Requirements and conditions imposed for Planning Approval	149
4.45	Requirements and conditions imposed for Planning Approval (FGD)	149
4.46	Reason for Refusal	150
4.47	Reason for Refusal (FGD)	151
4.48	Time framework for Decision Making Process	152
4.49	Time framework for Decision Making Process (FGD)	153
4.50	Time in month taken to obtain a complete Planning Approval	154
4.51	Issues and problems related to Submission and Approval Process	155
4.52	Issues and problems related to Submission and Approval Process (FGD)	156
4.53	Summary of findings	157
5.51	Summary of findings	165

LIST OF FIGURES

<u>Figure No.</u>		<u>Page No.</u>
2.1	Planning System in Malaysia	27
2.2	State Government Structure (2009)	36
2.3	Planning Framework in Sabah (2009)	37
2.4	Flow Chart of Development Process	57
2.5	Development Control Process	73
3.1	Research Methodology: Process, Methods and Structure	89
3.2	Triangulation model derived from the multiple-method	92
4.1	Structure of the Analysis	108

LIST OF MAPS

<u>Map No.</u>	<u>Page No.</u>
2.1 Development Control Zones (2009)	49

CHAPTER ONE

INTRODUCTION

1.0 INTRODUCTION

Development planning has been a function of government since the 1950s, with preparation of the first five-year development plan of the First Malaya Plan, 1956-1960. The initiative to establish a development planning system was due to the transformation in the physical environment caused by human's economic and social activities. This is including an introduction of development control process to the development planning system. The concept of development control process regulates the process of decision-making by local authority through enforcing requirements for planning permission and imposing of material considerations and conditions. As a whole, planning system and the development control process in particular, are the most effective way of fulfilling the needs for development and the protection of the environment.

In Malaysia, development control process is not just an alternative for better planning, but is also a requirement as stated in the planning law. The Town and Country Planning Act 1976 (Act 172) and the amendments require that planning permission be applied with the process of approving development plan in Peninsular Malaysia. For Sabah, the development control process for the state is governed by its Planning Act known as Town and Country Planning Ordinance 1950 (Sabah Cap 141).

This research discusses the planning system in Sabah by focusing on the planning application and planning approval process. This study examines the requirements and material considerations in processing planning applications to address the development control needs in the state. Moreover, in an attempt to identify issues and problems faced by current practice of planning application and planning approval process in Sabah, this study is conducted to address both the local authorities and applicant parties. A number of findings on the planning system impeding the better application of development control in Sabah are then concluded.

1.1 BACKGROUND OF THE STUDY

Town Planning Enactment 1923 was the first law established to govern planning legislation system in the Federated Malay States of Malaya. This planning act was introduced to ensure safety in terms of sanitary conditions and health of the public (Lee, L.M., 2003). Basically, the Town Planning Enactment 1923 was enacted in order to enable the established town planning committee at that time to regulate town planning, development controls and the proposed town improvement schemes.

Although Town Planning Enactment 1923 can be considered as a comprehensive set of planning laws, it faced a lot of issues and criticisms in light of local environment needs during these periods. As the result, the law was revised and a new Town Board Enactment 1927 (Cap 137) was passed in line with the expanded functions of local authorities that were more concerned with sanitation and health. Subsequently, the law was used as the early planning law in Malaya until independence in 1957. During the completion of Royal Commission Report, several issues pertaining to development approvals and the difficulties that were faced by

authorities to enforce the Town Plans due to compensation issues have spurred another revision of the act. This leads to the formulation of the Town and Country Planning Act 1976 (Act 172) (Azila Ahmad Sarkawi, 2006).

Since 1976, all states in Peninsular Malaysia have adopted the Town and Country Planning Act 1976 (Act 172) entirely or partially into their respective state planning systems. This is excluding the three federal territories of Kuala Lumpur, Putrajaya and Labuan as well as the states of Sabah and Sarawak. For the federal territory of Kuala Lumpur, its planning system is based on the Federal Territory (Planning) Act 1982 within the administrative framework of City of Kuala Lumpur (Planning) Act 1973. While for Putrajaya, the federal territory planning system is based on the Modification of Town and Country Planning Act 1976 Order 1998. For federal territory of Labuan, the planning system is based on the Modification of Town and Country Planning Ordinance 1950 of Sabah.

For Sabah and Sarawak, both states have their own Planning Act, known as Ordinance, to govern the planning matters in these states. The reason for this exclusion was that pertinent to an agreement between the states that have been made when joining Malaysia. According to Part IV of the Federal Constitutions, land matters would be under the control of the state government. For the matters related to planning, it will be shared by federal and state government. In the context of planning system, the federal government has power to control and supervise all planning matters within the state governments. As far as planning legislation in Sabah is concerned, the Town and Country Planning Ordinance 1950 (Sabah Cap 141) is law governing the planning matters for the state. For Sarawak, the planning is based on the Town and Country Planning Ordinance 1952 (Sarawak Cap 87).

1.2 OVERVIEW ON HISTORICAL BACKGROUND OF SABAH

This section provides a chronological background of Sabah. Emphasis on historical background of Sabah was made due to its relative importance to explaining the present establishment of its constitution as well as its legislation and system. It concentrates on several time phases as follows:

1.2.1 Early Records of Sabah on land ownership before the Pre-colonial Era

In the early records, there is no written evidence recorded by foreigners who had dealings with Sabah or Borneo with the exception of the Europeans (Turnbull, 1980; Leong, 1982). According to same authors (Turnbull, 1980; Leong, 1982), activities of trading and diplomatic dealings began in Sabah since the early 600 A.D and it started largely with the Chinese. It was recorded in Brunei Annals that a Chinese settlement was found in the Kinabatangan area. Then, in the early 14th century, the people of Borneo began to deal with traders from Arab and Malacca (Ryan, 1969). During this period, the highest social system in the state was the *suku* structure in which *adat* (customary) provided the bases for philosophy and sanction indigenous traditional customary undertaking behaviors. This traditional system is also known as native customary system which is derived from the word of 'native'. In relation to application of law, native customary law can be related to a custom or *adat* originating from indigenous people with different dialects, practiced since a few generations before.

According to Leong (1982) the word of 'native' in Sabah refers to 'the child or grandchild of a person of a race indigenous to Sabah'. These indigenous or native people are descendants of converts from the pagan tribes which were primitive to

Murut, which formed the largest indigenous groups in Sabah (Gullick, 1981; Miyakuni, 1999). However, as cited in Herman (1989: 29), there is a wide definition of ‘natives’ as mentioned in interpretation section in Ordinance Cap 64 of the Sabah Laws. In the law, the definition of natives is related to a person who is a member of a people indigenous to Indonesia, or the Sulu group of islands in the Philippines archipelago or the Federation of Malaya or colony of Singapore.

Formerly, there were no written forms of native customary law in Sabah until the colonial administration time. During that time, the native customary law in Sabah was expressed into a written form in an article named under the Royal Charter of 1881 (Singh, D.S. Ranjit, 2000). It provided vast principles of native law pertaining to land matters such as possession of, transfer, disposition of land and goods as well as the right over property and personal right (Wu, M.A., 1999). However, Native Rights to Land Proclamation 1889, which was then merged into the current Land Ordinance (Sabah Cap 68) was the first written law dealing with rights of natives over land specifically.

In relation to the current provision of the Town and Country Planning Ordinance 1950 (Sabah Cap 141), there is a list of matters relevant to native customary land. According to Section 15 of Sabah Cap 141, the native customary land constitutes of several types of categories which are related to:

- i. Land possessed by customary tenure
- ii. A land planted with fruit and the number of fruit trees reaching fifty and more to each hectare
- iii. A land that has been cultivated or built on within three years.

In terms of grazing land, it constitutes as customary land when the claimant agrees to keep the land stocked with a sufficient number of cattle or horses to keep the under-growth under control. The native customary land also constitutes isolated fruit trees and sago, *rotan* or other plants of economic value.

From the lists of native rights over land, it can be seen how these can affect the process of developments in the state. The native rights over land might be required in the case of land application from a Collector (or in the case of planning application, the developer), whereby when rejected needs to be compensated. Generally, there are two main categories of land title application; Native Title and Country Lease. The application for a Native Title is limited to natives of Sabah and the land area applied for is limited to 50 acres with agricultural purposes only. While for Country Leases, it involves applications for land areas exceeding 50 acres and for purposes of commercial, industrial, residential or agricultural uses. Country Leases are usually issued to individuals, commercial enterprises and corporate or government bodies (Sabah Lands and Survey Department, 2010).

In addition, Wu, M.A. (1999) has mentioned that 'dealings in native land such as sale, purchase, sublease, creation of trust and related transactions between a non-native and a native is illegal, presumably to protect native land and prevent their transfer to non-native'. Moreover, the native holds a permanent heritable and transferable right over the land in terms of right of use and occupancy. In the other words, the native customary law rights over land may be one of the factors that keep developments from being implemented on ground. It also might be a factor or a condition which influences the local planning authority to declare the planning application rejected or accepted with conditions.

1.2.2 Sabah during the Pre-colonial Era (15th to 17th Century)

According to Singh, D.S. Ranjit (2000: 5), 'by the beginning of sixteenth century, the Sabah region had come under the rule of the Brunei Sultanate, but even then it was never ruled as a single political unit'. Under this political system, Sabah was divided into numerous *jajahan* (dependencies) by the Brunei Sultanate. At the first half of the sixteenth century, Brunei dominated over communities along the whole west and north Borneo coasts, the Sulu archipelago and Mindanao (Turnbull, 1980; M.Muthulingam and Tan, P.C., 1993). By the end of the sixteenth century, the Brunei Sultanate started to lost its power due to internal conflicts within the Brunei Sultanate court which led to the decline of the empire (Turnbull, 1980).

In the early 1770s, the north-eastern part of Borneo became the territory of the Sultanate of Sulu as compensation for settling civil war among the Brunei Sultanate family (Cady, 1964). Under the control of Sultanate of Sulu, the northern part of Borneo (refer to Map 2.1) which is Balambangan area (refer to Map 2.1) was given to British East India Company with the agreement to build a trading post in the area in return for military defense aid (Ryan, 1976).

1.2.3 Sabah during the Colonial Period (18th century to 1960s)

As mentioned in Leong (1982), the name 'Sabah' was first mentioned in Brunei Annals when the Sultan of Brunei granted cession rights to Baron Gustav Von Overbeck in 1877 to an area conferred on Baron as 'Maharajah of Sabah'. There are also different names given by the British North Borneo Company (BNBC or the Company) during their time of colonization which includes 'North Borneo' and 'British North Borneo' (Singh, D.S. Ranjit, 2000). According to Sabah State Library (1992), after World War II, Japanese landed in Labuan and tried to invade Borneo

started from Sandakan. This caused resistance which was led by the locals in an effort to dispel the Japanese from Borneo. However, after three and a half years of war, Borneo was then claimed by British Military Administration on July 1946. Since then, North Borneo became a British Crown Colony and the Crown continued to rule North Borneo until 1963 (Kennedy, 1993). While Malaya had been granted independence on 31st August 1957, Sabah was granted self-governance on the 31st August 1963, 16 days away from the Proclamation of the Malaysia Act throughout the new country.

There were no statutory provisions in the early history of Sabah until the formulation of Civil Law Ordinance in 1938. However, under the status of protectorates of British Company, English Law was used in the state before the enactment of the Civil Law Ordinance. After the Second World War, North Borneo towns had been destroyed and the British Government helped set up the Colonial Development and Welfare Scheme in the state. According to Wu, M.A. (1999), “Sabah and Sarawak were in the same legal position as the Malay states with regards to the reception of English Law”. This explains the current adaptation of English Law into the direct legislation pattern in the state.

As far as planning legislation in Sabah is concerned, the Town and Country Planning Ordinance 1950 (Sabah Cap 141) is the law governing planning matters for the state. Historically, the Town and Country Planning Ordinance 1927 was the first legislation formed to monitor all matters related to town planning in the state. The act has been revised in 1953 under the administration of British Company to administer the reconstruction plan for Jesselton Town (currently known as Kota Kinabalu) after World War II. In the same year, the Central Town and Country Planning Board was established became the second highest authority governing all matter relating to land in the state. After the joining of the state into the Malaysia Federation in 1963, the