

**Appendix 4A****APPENDIX 4A****REVIEW OF CURRENT CONDITIONS –  
LEGAL AND INSTITUTIONAL ASPECTS****1 INTRODUCTION**

The management of solid waste in Peninsular Malaysia is at a critical juncture. In 1995 the Federal Government issued letters of intent to four consortia to undertake the collection and disposal of municipal solid wastes on a privatised basis. However to date the concession agreements, which would signal the formal appointment of the consortia by the Federal Government, have not been finalised. A Solid Waste Management Act is being considered. It is understood that this may result in the formation of a Commission or a regulatory body at the National level to regulate and impose controls on the provision of solid wastes management (SWM) services. It has been mentioned that amalgamation of sewerage services, which was reorganised in 1993, with SWM services, is being considered as an option. At this point in time there appears to be no decision on the formation of the Commission, or the consequent impact of any institutional changes required as a result.

Inevitably such major changes to the existing institutional infrastructure will have a lasting impact on the Malaysian public.

**2 BACKGROUND**

The rapid pace of urbanisation within Peninsular Malaysia is imposing immense pressures on the Local Authorities in terms of managing conflicting demands between rapid development and delivering a satisfactory level of basic services within their jurisdiction. Public health and sanitation is a basic responsibility of every Local Authority. SWM, sewerage service and public cleansing are the three essential components of public health services traditionally provided by Local Authorities all over the world, including Malaysia. In Malaysia however, largely due to the financial and institutional limitations of most Local Authorities, the provision of sewerage services has been federalised and privatised. Privatisation was undertaken by the Federal Government, which also became responsible for the regulation and control of these services.

The Federal Government has also initiated the privatisation of the provision of solid waste (SW) collection and disposal services. Three major private operators, namely Alam Flora Sdn Bhd, Southern Wastes Management Sdn Bhd and Northern Waste Industries Sdn Bhd have been given approvals pending the formalisation of concession agreements. These operators have pre-defined areas of operation (as determined by the original tender specification), and are responsible for the collection, treatment and disposal of solid wastes, including the final treatment of such wastes through the operations and management of landfills. In order to better manage these operators and to regulate the tripartite relationship between the Federal Government, private operators and the Local Authorities, it has been proposed that federal legislation be passed in the form of the Solid Waste Management Act. It appears that should these initiatives proceed to full

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implementation, Malaysia would be setting a precedent in the world community. No other country has “federalised” SWM nor has privatisation been undertaken at the federal level with a specified limited number of operators for the country.

### 3 OBJECTIVES AND SCOPE OF THIS REVIEW

The objective of this section of the Report is to present a review of the current institutional framework. The institutional framework would include a review of existing organisational structure and legislation. This report will assist in determining presently available areas of regulation and control in existing legislation related to SWM issues. Based upon this review some conclusions will be made which would form the basis for recommendations for the better management of the problem.

### 4 LEGAL PROVISIONS FOR SWM

#### 4.1 Introduction

In addressing issues related to this area, the laws pertinent to the following issues were examined:

- a) the planning, operations, maintenance and management of solid wastes;
- b) the regulation and control of SWM;
- c) land and the appropriation/development of landfills for SWM;
- d) municipal administration which is under the authority of the state authority/local government; and
- e) environmental management including issues related to public health and safety.

Other issues such as Federal/State/Local Authorities relationships, constitutional jurisdiction, and the rights and participation of stakeholders are given due consideration.

#### 4.2 Constitutional Position

##### 4.2.1 Introduction

This review is confined to the position of SWM and public cleansing under the Constitution. Public cleansing would include refuse collection and maintenance of all public spaces in terms of cleansing, which would include sweeping, washing, weed control and general maintenance. Public spaces would include open spaces, parks, footways, back-lanes, public drains and streets.

##### 4.2.2 Federal Powers – Common Services

Under the Ninth Schedule, List 1 (the Federal List), Item 6 of the Constitution – “The machinery of Government, subject to the State List, but including –

“Federal services including the establishment of services common to the Federation and the States; services common to two or more States”.

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It would appear that the Federal Government has power to establish common services especially where such services are common to the Federation and two or more States. It could be claimed that SWM is a service common to the Federation and all States. This would mean that the Federal Government could, for example, create an entity, such as a commission or department, to provide a common service to all the States. Examples of such services would be town and country planning, sewerage services and drainage and irrigation. However the establishment of any such service is subject to the State List. This means that the Federal Government cannot take over any matter in the State List and establish a service which usurps the State's powers under the Constitution. Matters pertaining to "land" for example are State matters, but the Federal Government has used the existing administrative service to conduct matters pertaining to land throughout the country. Officers in this service, though drawn from the Federal Service, when stationed at the district level, perform their duties strictly according to the dictates of the State and not the Federal Government. In the event the Federal Government needs to introduce laws and other coordinating guidelines to promote uniformity throughout the country on such matters, it has to use established constitutional channels prior to such actions, such as the National Land Council (Article 91 of the Constitution) or the National Council for Local Government (Article 95A).

### 4.2.3 Land

Pursuant to List II of the Ninth Schedule, item 2, all matters relating to land is under State jurisdiction. Consistent with Article 76(4) Parliament enacted the National Land Code for the purposes of uniformity in the administration of land throughout the Federation. The siting of any waste treatment or disposal facilities, such as landfills or incinerators, being largely land based, would require the cooperation and assistance of the State for its implementation. Article 83 allows the Federal Government to obtain land from a State for its purposes.

Article 91 also establishes the National Land Council (comprised of Federal and State representatives chaired by the Minister – which in the present context is the Prime Minister), which formulates national policies "for the promotion and control of the utilisation of land... for mining, agriculture, forestry or any other purpose..." The Federal Government or any State Government may consult the NLC with respect to any matter relating to the utilisation of land or in respect of any proposed legislation dealing with land or the administration of any such law. The Federal and State Governments shall implement the policy so formulated.

Article 92 allows the Federal Government to proclaim any area as a "development area". Upon such declaration, Parliament may give effect to the "development plan" by making **any laws** necessary to implement the Plan, including matters which are not under the Federal List. Putrajaya was established under Article 92.

**Appendix 4A****4.2.4 Municipal Administration**

The Federal List contains no mention of any Local Government services, with the possible exception of item 14 – “Medicine and health including sanitation in the Federal Capital”. “Health” may be interpreted to include public health, as “sanitation” is mentioned in the same sentence for the Federal capital. However the specific inclusion of “public health” under the Concurrent List indicates that such matters were not intended to be included in the Federal List.

Pursuant to List II (the State List) of the Ninth Schedule, Item 4, Local Government including Local Government services, local administration, local rates, obnoxious trades and public nuisances in Local Authority areas, are under the jurisdiction of the State. Local Authorities have traditionally been the providers of these services within their jurisdiction. Such services have included SWM, sewerage services and public cleansing. Local rates (called assessment rates) have been imposed and collected by the authorities to fund the services provided.

Article 95A also establishes the National Council for Local Government (comprised of Federal and State representatives chaired by the Minister) which formulates national policies “for the promotion, development and control of Local Government throughout the Federation and for the administration of any laws relating thereto...”. The Federal and State Governments shall implement the policy so formulated. It is also the duty of the Federal and State Governments to consult the Council in respect of any proposed legislation dealing with Local Government. Local Authorities play a crucial role in determining the quality of life of a community and any measure that diminishes that role has to be carefully considered.

**4.2.5 Environmental Management**

In many countries SWM is an integral part of environmental management. There is no direct reference to the control and regulation of environmental pollution in the Constitution, as concern for the environment and control of pollution are relatively new issues. It is necessary therefore to infer the source of authority for environmental matters by examining particular issues.

In the Federal List, Item 8 "Trade, commerce and industry" - sub-item (k), which relates to "factories, boilers, machinery, and dangerous trades" and sub-item (l) relating to "dangerous and inflammable substances" are the only specific items which may be inferred to impinge on environmental issues.

There are however more items under the State List. Item 2 which relates to "land, land improvement and soil conservation;" Item 4 which relates to "Local Government, including obnoxious trades and public nuisances in Local Authority areas and local administration;" Item 6 which relates to "water, control of silt and riparian rights;" and Item 12 which relates to "turtles and riverine fishing" all of which may, by inference, relate to environmental concerns.

The Concurrent List also includes similar provisions. Item 3 for "the protection of wild animals and birds including national parks;" Item 5 for "town and

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country planning;" Item 7 includes "public health, sanitation and the prevention of diseases;" Item 9 includes "the rehabilitation of mining land and land which has suffered soil erosion;" and Item 8, which relates to drainage and irrigation. All of the above may, in their particular areas, be inferred to include environmental concerns.

It would therefore appear that both the Federal and State Governments have power over environmental matters depending upon the subject matter under consideration. In the leading case of **Ketua Pengarah Jabatan Alam Sekitar & Anor. V Kajing Tubek & Ors.** (3 MLJ 1997) the Court of Appeal decided that in the event of conflict between State law and the Federal Environmental Quality Act, 1974 (EQA), environmental law which was to be applied depends on the specific subject matter to which it applies and whether the State or Federal Government had powers on the matter. Environmental matters related to land, water and municipal services, for example, would be under the State Government.

### 4.3 Powers Under The Concurrent List

The Concurrent List – List III, contains items on which both the Federal and State Governments may make laws (Article 74). Of relevance to this study are "Town and Country planning" and "Public health, sanitation... and the prevention of diseases" in the List. The exercise of powers by the State or Federal Government under the Concurrent List is subject to several provisions in the Constitution. Article 75 provides that Federal Law shall supersede any State law that conflicts or is inconsistent with Federal laws. The Federal Government may exercise its executive authority on any matter enumerated in the Concurrent List provided it is supported by law. It may do so to the exclusion of the State. Using these constitutional provisions (including Article 76(1)(b) – see subparagraph (f) below) it appears that the Federal Government has set a precedent in the provision of sanitation services by taking over sewerage services and enacting the Sewerage Services Act 1993 (SSA). This was a service that was traditionally provided by the Local Authorities and appropriately covered by the State List under the term "Local Authority services". Several laws giving powers to the Local Authority still exist such as the Street, Drainage and Building Act 1974. These were all enacted prior to the Sewerage Act. It is arguable that SWM may also be similarly considered. Certainly SWM, or the lack of it, has sanitation and public health implications. At the same time it is considered essentially a Local Government service (both domestically as well as internationally). The complete removal of SWM responsibilities from Local Authorities would bring into question the residual role and responsibilities of Local Authorities in the country.

### 4.4 Other Federal Powers

Parliament (the Federal Government) may, in certain circumstances, make laws with respect to any matter within the State jurisdiction. Specifically the Federal Government may under the Constitution, "for the purpose of promoting uniformity of the laws of two or more States", make laws related to any matter in the State List (Article 76(1)(b)). Such laws include the National Land Code 1965 (NLC), Local Government Act 1976 (LGA) and the Street, Drainage and Building Act 1974 (SDBA). The SSA was also enacted with the purpose of consolidating all laws relating to sewerage systems and services in the country. All these laws undergo extensive consultations between the Federal and State Governments prior to

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adoption. Such a law shall come into operation in any State only after it is adopted by the legislature of the State. Thereafter it shall be considered a State law.

The Federal Government also has commitments to meet various international agreements, such as the UN Framework Convention on Climate Change 1992, Vienna Convention for the Protection of the Ozone Layer 1985, Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal 1989, and the ASEAN Agreement on the Conservation of Nature and Natural Resources 1985. Under Article 76(1) (a) of the Constitution, the Federal Government may make laws for the implementation of its obligations under these international conventions even if the matters fall under the State List.

### 4.5 Conclusion

So far as the constitutional position related to SWM is concerned, it would appear therefore that, currently, State Governments have the jurisdiction to play a much larger role than the Federal Government. State Governments control Local Government, Local Authority services and other crucial aspects of SWM such as town and country planning and land. However the fact that “Public Health and Sanitation” are matters under the Concurrent List gives leeway for the Federal Government to play a more significant role in the future of SWM. The Federal Government may use these factors to ensure a role for itself, whilst taking into consideration the critical role of Local Authorities and Local Government services provided by them. The Federal role may be supplementary to that of the Local Authorities. Whatever the role or law that is decided upon it should be channelled through the National Council for Local Government (NCLG) to legitimise all actions.

## 5 REVIEW OF EXISTING LEGISLATION

Consistent with the constitutional position whereby State Governments appear to have jurisdiction over SWM, management of solid waste is covered by several State laws. Legislation in Malaysia directly or indirectly related to SWM, land, Local Government and the environment is itemised in **Annex 1**.

### 5.1 Local Government Act, 1976 (LGA)

In essence municipal administration is about providing essential services to the public. Such services include sanitation, solid waste management and public cleansing. In return for such services citizens pay rates to fund the activities of the authorities. The provision of such services and the collection of rates are governed by various laws. The principal legislation is the Local Government Act, 1976 (LGA). The LGA applies throughout Peninsular Malaysia. It provides for the formation of Local Authorities and governs their administration, operations, areas of control and regulation and financing. It also allows detailed regulations to be enacted by the Local Authorities to regulate specific matters such as to establish, maintain and compel the use of services set up for solid waste removal and public cleansing. Many Local Authorities have made such regulations, which are reflected in **Annex 1**.

The LGA provides for the control of activities or nuisance within any Local Authority area. Local Authorities may:

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- a) maintain public health through the carrying out of sanitary services such as the removal of night soil, slops, rubbish and all kinds of refuse and effluents;
- b) prevent littering or depositing of any waste or filth;
- c) prevent any waste from being allowed to flow into or the discharge of any liquid or solid into drains or watercourses;
- d) prohibit, abate, remove or prevent the occurrence of any nuisance;
- e) collect rates (either consolidated or separate) from any holding within the Local Authority area, including where deemed necessary a sewerage improvement rate and a drainage rate; and
- f) generally do all things necessary for, or conducive to, safety, health and convenience of the public.

Most major Local Authorities have enacted by-laws relating to the collection and disposal of refuse and wastes, including anti-litter provisions. The major By-law related to SWM is the Refuse Collection, Removal and Disposal By-law. Other relevant By-laws are indicated in **Annex 1**.

### 5.2 Street, Drainage and Building Act, 1974 (SDBA)

The carrying out of any works for streets, buildings or drains is controlled under the Street, Drainage and Building Act, 1974 (SDBA). The SDBA provides power to Local Authorities to effect control on the deposition of any refuse, wastes or unwanted material onto any street, building or drains. The deposition of any thing or article on to streets such as to cause an obstruction is prohibited. In fact frontagers of streets have an obligation to keep the adjoining street clean (section 44). The construction of any building on ground which has been used as a landfill is prohibited (section 76). Building and Earthworks By-laws have been made by most Local Authorities or State authorities to control the carrying out of works. These By-laws contain provisions to control the effects of construction, and disposal of wastes arising from such activities.

Drainage in municipal areas is the responsibility of the Local Authorities under the SDBA (and LGA). Every Local Authority is empowered to make by-laws to provide drains in the interest of public health. None of the authorities have however made any drainage by-laws. Local Authorities appear to follow the Urban Drainage Design, Standards and Procedures issued by the Drainage and Irrigation Department (DID) (now replaced by the Urban Storm Water Management Manual). The SDBA imposes an obligation on the Local Authority to construct and maintain drains. The Local Authority has powers under this Act to levy fees or charges to enable it to defray expenses in executing its functions. It also has powers to determine the location, design, flow and other detailed characteristics of drainage in any area within its jurisdiction. Drainage along highways, roads and railways are built by the respective authorities or operators and maintained by them respectively.

Whilst the SDBA provides adequate powers for the design and layout of drainage it does not however provide for controls over the quality of discharge into such drains. The quality of discharge may be controlled under other legislation such as the Selangor Waters Management Authority Enactment, 1999 (SWMAE) and the Environmental Quality Act, 1974 (EQA). The EQA controls largely point sources of discharge originating from premises such as factories and plants. The SWMAE, effective only in Selangor, can control both point and non-point sources of discharge into any water source including the connection of urban drains into rivers. Local

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Authorities too have limited powers (under the LGA) in terms of controlling discharge of effluents and noxious substances into any drain within the local authorities area. The run off from highways usually contains high amounts of substances related to petroleum and its additives. However the provisions in the LGA does not cover such non-point sources of pollution.

### 5.3 Environmental Quality Act, 1974 (EQA)

The EQA, a Federal law, is the principal legislation pertaining to environmental protection. Various sections of the EQA provide controls over air, water, soil and noise pollution. Section 21 provides powers for the Minister (of Science, Technology and Environment) to specify the acceptable conditions for emission or discharge of waste, pollutants or noise into any area of the environment while Section 51 provides powers for the Minister to make regulations for various purposes. Pursuant to these provisions, several regulations have been enacted. The Environmental Quality (Licensing) Regulations 1977 provides for licensing of prescribed premises or any premises that emit or discharge wastes or noise (greater than the prescribed volumes, intensity or quality) into the environment. The Environmental Quality (Sewage and Industrial Effluents) Regulations 1979 regulate effluent discharges from domestic, industrial and other point sources of pollution (such as leachate from sanitary landfills). The Environmental Quality (Scheduled Waste) Regulations 1989 imposes controls on "Scheduled Wastes", which are generally classified as toxic and hazardous, and include mainly wastes from industry but also some wastes from domestic sources (such as batteries). There are several other relevant regulations including the Environmental Quality (Clean Air) Regulations 1978, which applies to emissions from industrial premises and will apply to emissions from incinerators. In addition the DOE has issued a Guideline for the disposal of solid waste on land namely the "EIA Guidelines for Municipal Solid Waste, Sewage Treatment and Disposal Projects".

Section 34(A) of the EQA provides for environmental impact assessment of prescribed activities. The Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 1987 prescribes various activities, for which an assessment of the environmental impacts be undertaken and a report submitted to the Director General of Environment for approval. Activities related to waste treatment and disposal of toxic and hazardous wastes and municipal solid wastes are regulated by this Order. Construction of incineration, composting and recovery/recycling plants and all landfills require an EIA to be undertaken.

The EIA requirement is a preventive measure to ensure that project proponents give due consideration to environmental matters in the planning and implementation of proposed projects. All new facilities for solid waste disposal and treatment are subject to the process of an EIA. The EIA process consists of two major procedures, namely the preparation of a preliminary EIA or a detailed EIA report, and the Review of the report. Whilst all prescribed projects undergo the preliminary EIA process, the Department of Environment (DOE) may require a detailed EIA to be undertaken where it is deemed that the activity is likely to have major impacts to the environment. The results of a Preliminary assessment (conducted by consultants appointed by the project proponents), are reviewed by the DOE internally or with the assistance of other government authorities or agencies. The results of a detailed assessment (also conducted by consultants appointed by the project proponents), are reviewed by an ad hoc review panel appointed by the DOE. The review panel generally includes members of the public or non-governmental organisations (NGO). General public

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comments are also allowed during the review process. In both the preliminary and detailed EIA process, the EIA report has to be approved by the Director General of DOE. The approval is then forwarded to the relevant project approving authorities, which may be a State or Federal authority, for decision on its implementation. Project monitoring, enforcement and auditing are the responsibility of both the DOE and the respective implementation agencies.

Amendments introduced in 1996 make provision for encouraging recycling of products. Section 30A. enables the Minister to prescribe any substance as hazardous and require the substance “to be reduced, recycled, recovered or regulated” in a manner to be prescribed by the Minister. Furthermore, any product may be required to contain a minimum content of recycled substances. Section 30B allows the Minister to specify guidelines and procedures on deposit and rebate schemes for the disposal of products that are considered to be “environmentally unfriendly or causing an adverse constraint on the environment” so that the products may be recycled or disposed off in a sound manner. These provisions are far reaching and would enable the DOE and the nation to step into an era where products are designed with environmental friendly disposal in mind. These provisions have not been implemented as yet.

### 5.4 Conclusions

SWM and public cleansing, traditionally, have been Local Government services. Local Authorities are responsible to State Governments. Adopting a procedure similar to that of the SSA may possibly enable the promulgation of a Federal law on SWM and public cleansing. The same safeguards as were applicable for the formulation of the SSA should be adopted for the SWM law. Prior consultation with all State Governments would be critical, including the approval of the NCLG.

With the exception of the EQA there is no Federal legislation that deals with any aspect of SWM. SWM legislation is currently largely Local Authority based. There is an absence of a significant role for the Federal (or even the State) Government in the control and regulation of SWM. Solid waste management is presently implemented at the local level. The Federal Government initiated the privatisation of SWM on a national basis. However, the absence of legal powers for the Federal Government has resulted, and will continue to result, in significant delays in the rationalisation of SWM services in the country.

The LGA is more than three decades old. Much of this Legislation is not in tandem with present day needs of effective management of SWM. The formulation of a new federal law on SWM will require a review of the LGA and SDBA to avoid duplication of authority and responsibility. The various By-laws will also have to be reviewed depending on the contents of the new law.

It is not certain, at this stage, whether all Local Authorities have adopted standard by-laws on SWM. The existing By-laws also need to be revised and updated to adopt new methods and controls for SWM.

Currently the concessionaires for SWM enter into annual interim contracts with various Local Authorities where they provide their services. The relationship between the Local Authority and concessionaire is largely contractual and based on a standard interim agreement drawn up by the MHLG. A regulatory role for the overall control of private operators is currently lacking. The continuing interim nature of the

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relationship between the concessionaires and the Local Authorities has also imposed severe constraints on planning and development of SWM services in all Local Authorities.

The SWM Operator relies on the Local Authority for enforcement in terms of anti-littering measures and solid wastes collection. The Operator has no legal backing and little or no incentive to undertake enforcement.

The rates collected by Local Authorities are presently a consolidated rate for all services provided by the authority and are sanctioned under the LGA. The rates are based on the valuation of holdings within the Local Authority and not on the cost of services provided by the latter. Enforcing the “user pays principle” for SWM and direct collection by the operators will require changes to the LGA.

It would appear that a participatory approach to SWM is not provided for in the legislation that has been reviewed. Legal provision should be made to ensure/encourage the participation of stakeholders, which would be essential for the future success of SWM.

**Appendix 4A****6 INSTITUTIONAL STRUCTURE FOR SWM****6.1 Introduction**

The present management of solid waste may appropriately be divided according to the major players involved at various levels and their degree of involvement. The major players are the Federal, State, and Local Governments and the private/commercial operators.

The agencies relevant to solid waste management are provided in **Table 1**.

Local authorities are the lowest level of government within the structure of the government system in the country. Except for the federal territories and Putrajaya, local authorities are subservient to the State Government.

At the operating level there would be numerous stakeholders. This would include the concessionaires or privatised main service providers (Alam Flora and Southern Waste), subcontractors, transport operators, disposal and or landfill site operators, recycling vendors, equipment and chemical manufacturers, R&D institutions, industry associations etc. The critical role played by all these organisations in maintaining the SWM machinery should not be underestimated.

**6.2 Federal Government Agencies****i. Ministry of Housing and Local Government**

Local Government is a State matter in the Constitution. However, despite the constitutional position, the Federal Government has taken upon itself the responsibility to ensure that effective Local Government services are provided to the general public. This responsibility is channelled through the MHLG (see **Figure 1**). Within the MHLG, the Department of Local Government handles all related matters pertaining to this issue. The MHLG is responsible for the development of national policies related to Local Government. It plays a coordinating role pertaining to the development, financing and operations of Local Authorities. All Local Authority applications for Federal Government financial and development assistance are channelled through the Ministry for consideration before it is forwarded to the central agencies for approval. Issues such as privatisation of SWM services, formation of the Sanitation Commission and the proposed SWM Act would be matters directly under the purview of this Ministry.

The Department of Local Government (see **Figure 2**) has been particularly active in developing uniform standards, by-laws and guidelines for use by Local Authorities. The Action Plan for a Beautiful and Clean Malaysia (the ABC Plan) was a document that was prepared by the Ministry with the assistance of the Japan International Cooperation Agency (JICA). The Ministry is also the Secretariat for the National Council for Local Government, which is the supreme body for the coordination of all policies and laws related to Local Authorities. Any move to change existing laws or introduce new laws related to Local Government is required to be submitted for consideration by this Council.

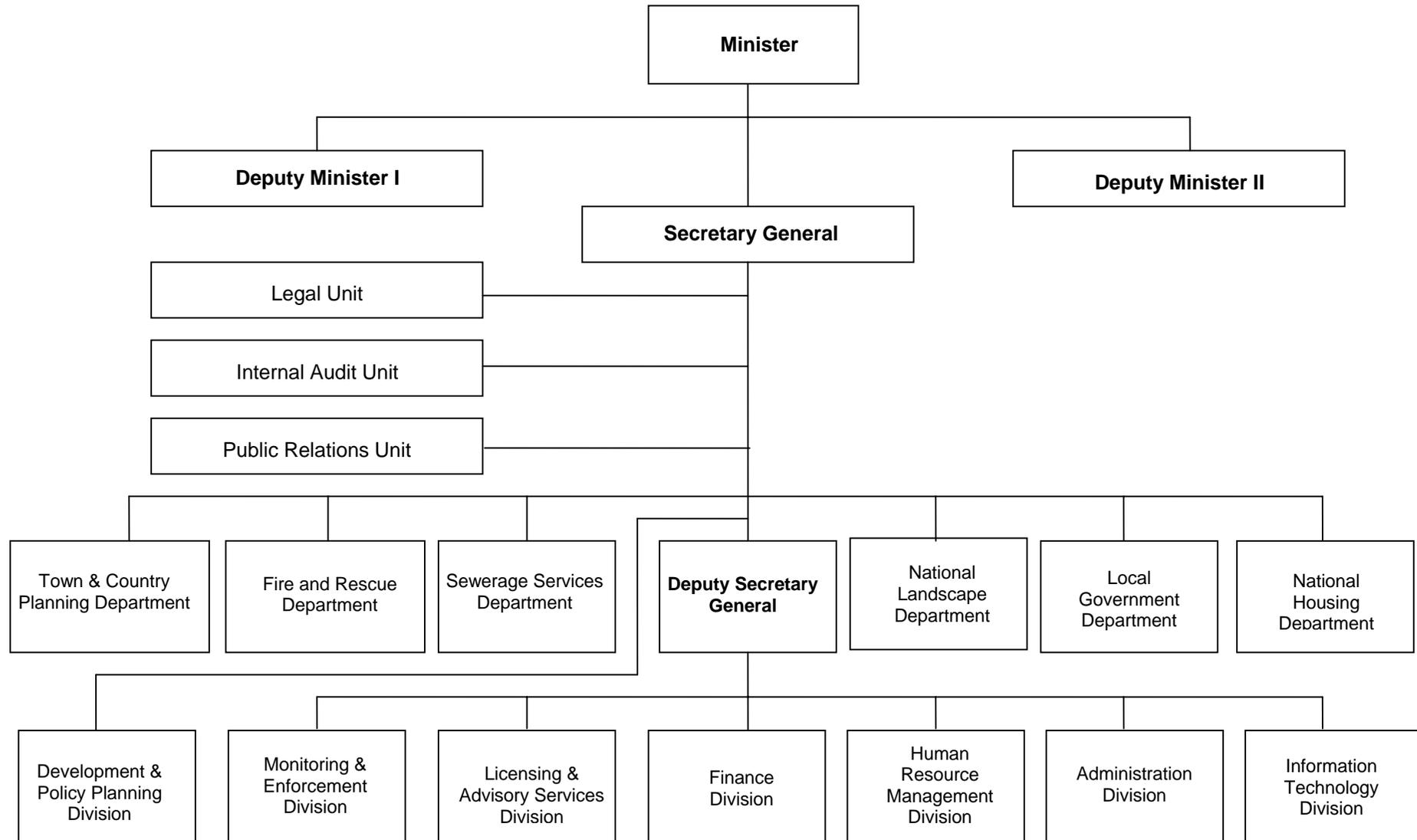
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Table 1 : Agencies Relevant to Solid Waste Management

<b>(a) Key Federal Agencies</b>	
<b>Federal Agency</b>	<b>Ministry</b>
Economic Planning Unit (Social & Privatisation Divisions)	The Prime Minister's Dept.
Department of Local Government	Ministry of Housing and Local Government
Department of Environment	Ministry of Science, Technology and Environment
Engineering Services Division	Ministry of Health
<b>(b) Related Federal Institutions</b>	
Department of Town & Country Planning	Ministry of Housing and Local Government
Public Works Department	Ministry of Works
Drainage & Irrigation Department	Ministry of Agriculture
Minerals and Geoscience Dept.	Ministry of Primary Industries
<b>(c) State Government Department &amp; Agencies</b>	
State Economic Planning Unit	
State Town and Country Planning Department	
State Department of Environment	
State Health Department	
State Irrigation and Drainage Department	
State Public Works Department	
State Minerals & Geoscience Department	
<b>(d) Local Government</b>	
Municipal or City Councils	
District Councils (for areas outside the town administrative boundaries)	

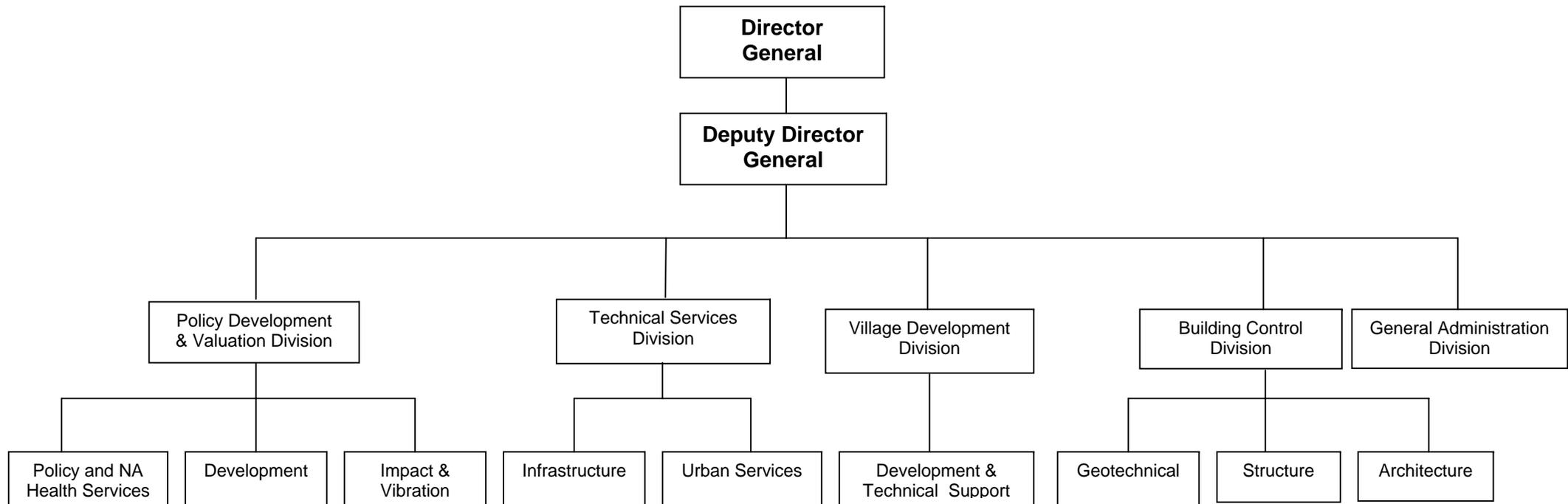
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Figure 1 : Organisation Chart – Ministry of Housing and Local Government



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Figure 2 : Organisation Chart – Department of Local Government



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The Town and Country Planning Department, under the MHLG, is another important agency, which can play a crucial role in SWM. The Department is responsible for the implementation of the Town and Country Planning Act 1976 (TCPA), and it advises State Governments with regards to land use and physical planning. The Department is responsible for the preparation of detailed plans for urban development and the allocation of land for various purposes. Such detailed plans include the identification and allocation of sites for the treatment and disposal of solid wastes.

**ii. Economic Planning Unit, Prime Minister's Department**

The EPU is one of the central agencies of the Government for planning. Specifically it is charged with charting the economic development of the nation. National development plans are produced by the EPU every five years and this will include matters pertaining to SWM. Financial allocations for development projects are largely determined in accordance with the five-year plans. The EPU is also responsible for privatisation programmes. The appointment of the concessionaires for the management of solid wastes was undertaken by the EPU. Major capital investments in solid waste management facilities such as incinerators or sanitary landfills, particularly where it involves federal funding, would generally require the approval of the EPU.

**iii. Ministry of Finance**

The Ministry of Finance is also a central agency. It is the approving agency for all budgetary and financial allocations to government agencies. Annual allocations are approved by this Ministry. Allocations of grants or loans to Local Authorities would require the approval of this Ministry.

**iv. Ministry of Science, Technology and Environment (MOSTE) - Department of Environment (DOE)**

The DOE is charged with the responsibility for the prevention, control and regulation of environmental pollution. It is the main implementing agency for the EQA. In relation to wastes management, the DOE's emphasis is on the control and regulation of scheduled wastes, while control on the management of non-scheduled solid wastes rests with the Local Authorities. The DOE however has powers to impose controls on SWM facilities particularly where it involves incinerators or landfills, through the EIA provisions. The DOE has issued the EIA Guidelines for Municipal Solid Waste, Sewage and Disposal Projects. This Code and the other existing regulations provide advice to the Local Authorities on the development, siting and operation of landfills and incinerators. Though the EQA provides for measures to encourage recycling the DOE has not embarked on programmes related to this matter.

**v. Ministry of Health – Engineering Services Division**

The Ministry of Health (MOH) is responsible for public health in the country. Its role in SWM however is, at this juncture, confined to ensuring that solid wastes are disposed off in a hygienic way in areas where no Local Authority has jurisdiction. Such areas are largely rural areas. However it appears that much of the expertise related to SWM rests with the MOH, more specifically

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within the Engineering Services Division. Staff from this division has traditionally been seconded to MHLG to meet the needs of the Ministry. Thus, when sewerage services were taken over by the Federal Government, the new agency created was staffed by officers from this Division.

The MOH's outreach programme through the Public Health Assistants and the Public Health Inspectors is effective in managing public health at most Local Authority areas. Courses conducted at the Public Health Institute endow these officers with the necessary competence to undertake such programs. The Ministry also has an ongoing public awareness programme to promotes health via the media and by direct community participation.

### vi. **Ministry of Works - Public Works Department (PWD)**

The PWD is the government agency in charge of planning, construction, supervision and maintenance of public works such as roads, bridges, buildings and water supply.

### vii. **Ministry of Agriculture - Department of Irrigation and Drainage (DID)**

The Department of Irrigation and Drainage under the Ministry of Agriculture is responsible for provision of engineering services in the field of irrigation, drainage, river, coastal hydrology and water resources. The Department is the sole government agency responsible for irrigation, flood mitigation, coastal engineering and rivers both at Federal and State level. The headquarters has a hydraulics research laboratory and a hydrology section, which keeps stream flow and water quality records and disseminates information to other government and private institution. The DID is also promoting the Integrated River Basin Approach that takes into account management of potential sources of river pollution.

### viii. **Ministry of Primary Industries - Minerals and Geoscience Department**

The Minerals and Geoscience Department is under the Ministry of Primary Industries and has State Department for the states. The Department is responsible for geological, mineral and groundwater studies, surveys and research and regulates mineral extraction and groundwater abstraction.

## 6.3 State Agencies

### i. **State Economic Planning Unit**

The State Economic Planning Unit (EPU) is an extension of the Federal EPU and is responsible for the Planning of all socio-economic development programmes in the State. It services all preparation of the programme submitted by the various state agencies and finalises them before submission for inclusion in the Malaysia Plan.

### ii. **State Town and Country Planning Department**

The State department is responsible for the development control and policies of land uses, the preparation of State development plans such as Housing Development Plan, Industrial Areas and Tourism. The department also

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advises the local authorities in their day-to-day work regarding the development control and the preparation of layout plans of a local area.

**iii. State Department of Environment**

The functions of the state DOE include:

- Enforcement of regulations;
- Review of EIA reports;
- Review of applications for siting of new industries/development projects not subject to EIA;
- Review of applications for licence of prescribed premises and contravention licence;
- Awareness programmes.

**iv. The State Health Department**

The State Health Department is responsible for the overall protection of public health against food, water and environment-related diseases. The department is involved in assisting the development and monitoring of projects that are likely to have impacts on the environment including water at all state and district levels.

**v. State Public Work Department (PWD)**

At state level, the PWD provides advice and/or undertakes infrastructure projects. The PWD representative is an ex-office member of the district council.

**vi. State Department of Drainage and Irrigation (DID)**

The State DID's functions are primarily to assist the State Governments in Planning, Construction, operation and maintenance of drainage and irrigation works, maintenance of rivers and waterways and provide advice, and/or undertake major flood mitigation works. The State DID office acts as the headquarters for DID activities within a state, and provide technical and logistical support to the districts.

**6.4 Local Authorities**

Local Authorities operate as a City Council, Municipal Council or District Council administering a pre-defined local administrative area. The powers of local authorities are vested in the *Local Government Act 1976* (LGA), and the *Street, Drainage and Building Act, 1974* (SDBA). In addition, local authorities have also been vested with powers to implement the *Town and Country Planning Act 1976* (TCPA).

City Councils are established for those large urban areas which have been conferred city status (generally an area having a very large population). Municipal Councils are established for areas with more than (100,000) population. District councils are administered by District Officers who are also in charge of the overall administration of the district. These districts may be largely rural in nature with very small urban

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conurbations. All these councils are created by the State Governments in consultation with the Minister for Housing and Local Government and are established by virtue of the provisions of the LGA.

The functions of the local authorities can be categorized in terms of their activities. These activities include the following :

- a) Determination of Policy or broad guidelines for action
- b) Planning and budgeting for the five-year socio-economic development programmes and annual programmes within the policy framework (directed and approved by the State Government in respect of the municipalities and local authorities) given the financial and administrative constraints.
- c) Control or regulation of new development and activities that could create a public nuisance or be injurious to health.
- d) Provision of services, which can be broken down into sub-activities such as program planning, development and operation.
- e) Monitoring of the social and physical environment, including aspects of environmental quality and health.
- f) Financial management including determining tariff and assessment rates

**Figures 3, 4 and 5** show the current situation of the various types of local authority administrative bodies throughout the Peninsula.

Local authorities have heavy responsibilities since they look after largely urbanised areas where developmental activities are the most intense and rapid. The local authorities are the local planning authority. They have an important role in implementation of decisions on land use determined within Structure and Local plans approved by the State, as well as the approval of building plans and the development of urban drainage, utilities and road infrastructure. The control of developmental activities that have potential to impact the physical, biological and human environment as a result of earthworks is also an important function of local authorities.

In relation to matters concerning local authorities, the powers of the State over local authorities, include:

- Accept or otherwise any legislation relating to local authorities that is formulated by Parliament,
- Control changes to boundary, incorporation of new areas and approve the status of a local authority,
- Appoint Council Members, Mayor or the President of a local authority,
- Approve expenditure of local authority (the Perbadanan is excluded),
- Approve appointments of local authorities (the Perbadanan is excluded), and confirm by-laws made by local authorities.

**Appendix 4A****6.5 National Councils**

The National Councils are national level sectoral councils which report directly to the Federal Ministerial Cabinet and advise the Federal and State Governments on sectoral policies and guidelines. Presently, the Councils that have relevance for solid waste management include:

- a) National Land Council,
- b) National Council for Local Government, and
- c) Environmental Quality Council (advises the Minister of Science, Technology & the Environment)

**6.6 Non-Governmental Stakeholders**

There are several groups in the private sector that are stakeholders in solid waste management. They include the following:

**i. Solid Waste Concessionaires**

These are the companies that were awarded the concession based on a regional basis in December 1995. The two that are currently operating are :

- Alam Flora Sdn Bhd
- Southern Waste Management Sdn Bhd

**ii. Solid Waste Contractors**

These are the companies that were given contracts for solid waste collection services in the concession areas and in the Local Authority areas where solid waste services have not been taken over. For example Alam Flora has about 650 contractors working in their concession areas.

**iii. Solid Waste Recyclers**

These are the companies that utilise recyclables in their manufacturing process. The main recyclables used are paper, plastic, glass and aluminium cans. The major stakeholders include:-

- Malaysian Newsprint Industries Sdn Bhd – Paper
- Genting Sanyen Industrial Paper Sdn Bhd – Paper
- KL Glass Manufacturers Sdn Bhd – Glass
- Malaysian Sheet Glass Sdn Bhd – Glass
- May Plastic Industries Sdn Bhd – Plastic
- Amalgamated Aluminium & Alloy Sdn Bhd – Metals

**iv. Middlemen Buyers of Solid Waste Recyclables**

These are a mixed group of buyers who mainly purchase recyclables from the crew of solid waste collection vehicles (tailgate recycling). The main item

## Appendix 4A

collected consist of newspapers, cardboard and magazines. Other recyclables collected include metals, plastic and glass.

Alam Flora also acts as a middleman buyer through its 3Rs programme with the setting up of buy-back centres at strategic locations in its area.

### v. Solid Waste Recycling Partners

This group represents businesses that cooperate with the government and concessionaires, or even with NGOs in implementing recycling activities. They include supermarket groups, and petrol stations.

## 6.7 Research Institutions and Universities

The stakeholders from research institutions and universities provide an important link by carrying out studies related to solid waste and contributing to the database on solid waste. They also provide technical expertise to assist the government in assessing waste management technologies. Some of these organizations provide state of the art laboratory facilities for analytical purposes eg. for waste composition and characterisation. Those that are active in the field of solid waste management include:

- Universiti Putra Malaysia (UPM) – Member of Technical Committee to advise Minister of Housing & Local Government
- Universiti Teknologi Malaysia (UTM) – Member of Technical Committee to advise Minister of Housing & Local Government
- Universiti Malaya (UM)
- Malaysia Institute for Nuclear Technology Research (MINT) – Member of Technical Committee to advise Minister of Housing & Local Government

## 6.8 Non-Governmental Groups

The non-governmental stakeholders who have a direct or indirect role in solid waste management include environmental organisations, social and residents associations, manufacturers' associations, consumer associations, the construction industry, property developers and professional associations.

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Key NGOs actively engaged in SWM are provided in Table 2.

**Table 2 : Key NGOs actively engaged in SWM**

	<b>Organisation</b>	<b>Activities</b>
1.	Persatuan Kebajikan Xim Phou Moon Malaysia	A volunteer organisation that collects recyclables at collection centre in many supermarkets throughout the country.
2.	Malaysian Plastic Manufacturers Association (MPMA)	Association of major plastic manufacturers involved with recycling programmes and promotion. Also a partner in National Recycling Day 2001.
3.	World Wide Fund for Nature Malaysia (WWF)	Conducts nature, wildlife and environmental conservation research. Also a partner in National Recycling Day 2001.
4.	Malaysian Pulp & Paper Manufacturers Association	Association of major paper manufacturers involved with recycling programmes and promotion.
5.	Treat Every Environment Special (TREES)	A volunteer organisation that collects recyclables at collection centre in many supermarkets mainly in the Klang Valley.
6.	Consumer Association of Penang (CAP)	Represents the interest of businesses and the public in Penang, including environmental issues.

Appendix 4A

Figure 3: Organisational Structure of the Putrajaya Corporation

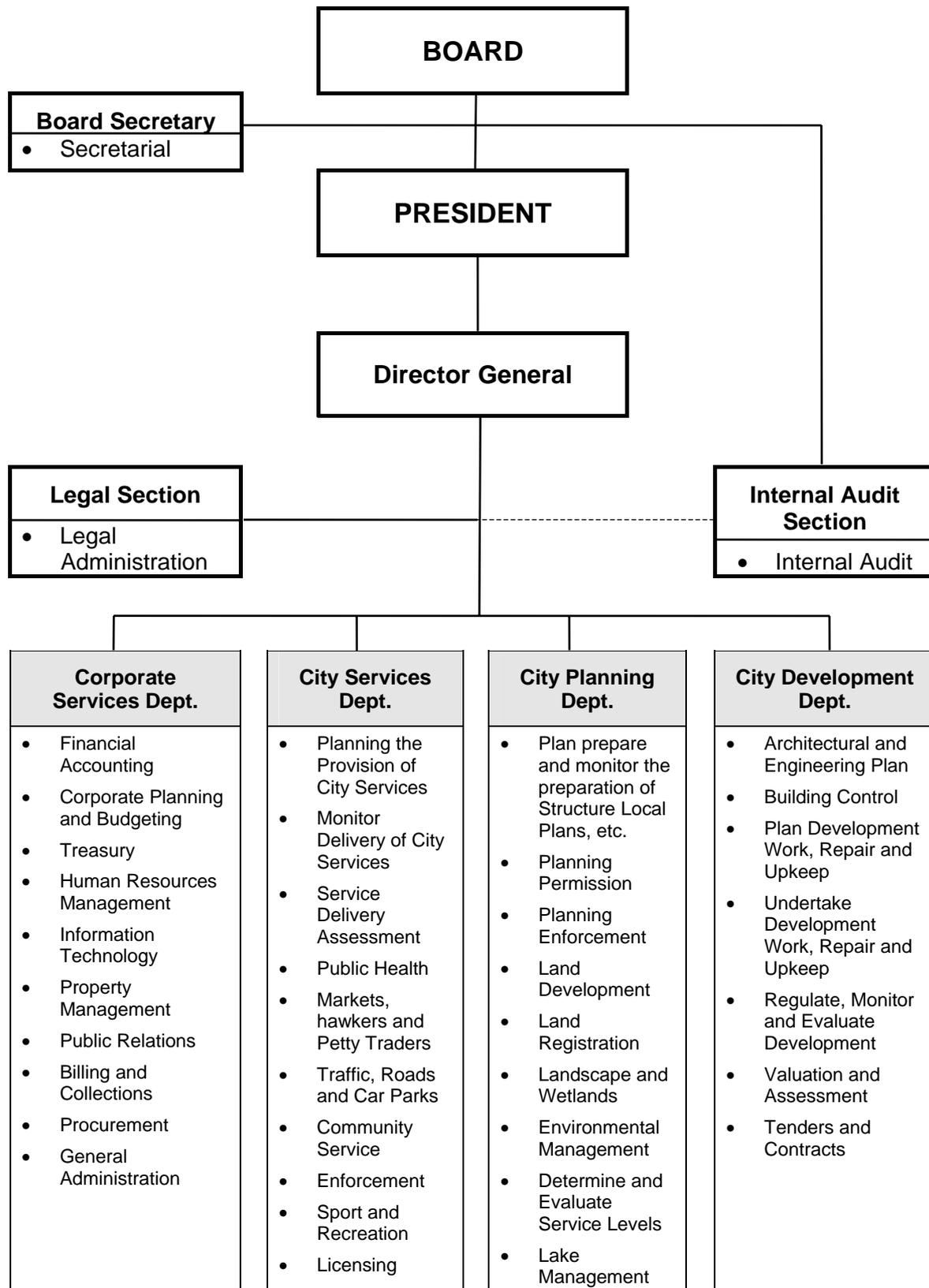


Figure 4 : Organisation Chart Of A Municipality (Subang Jaya)

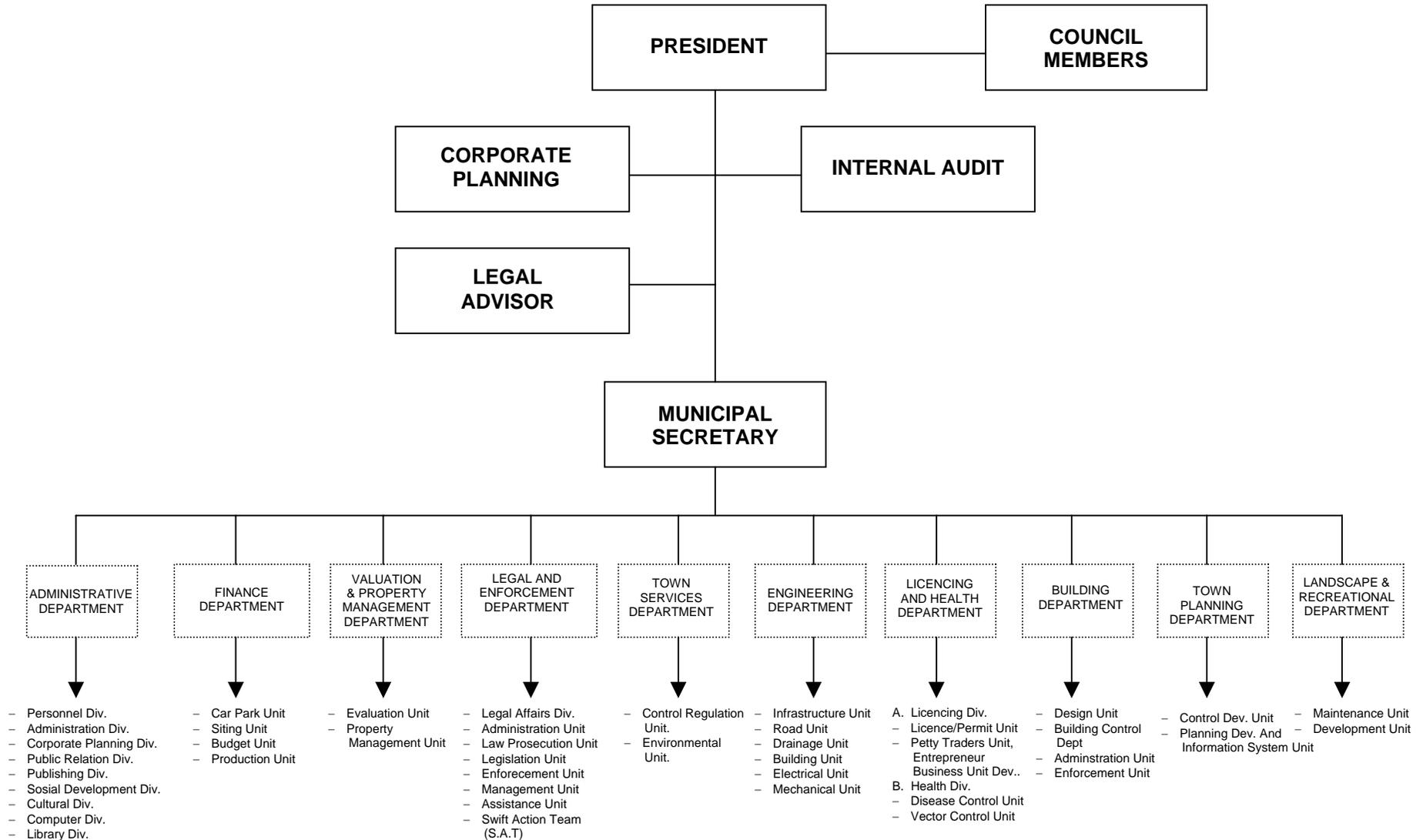
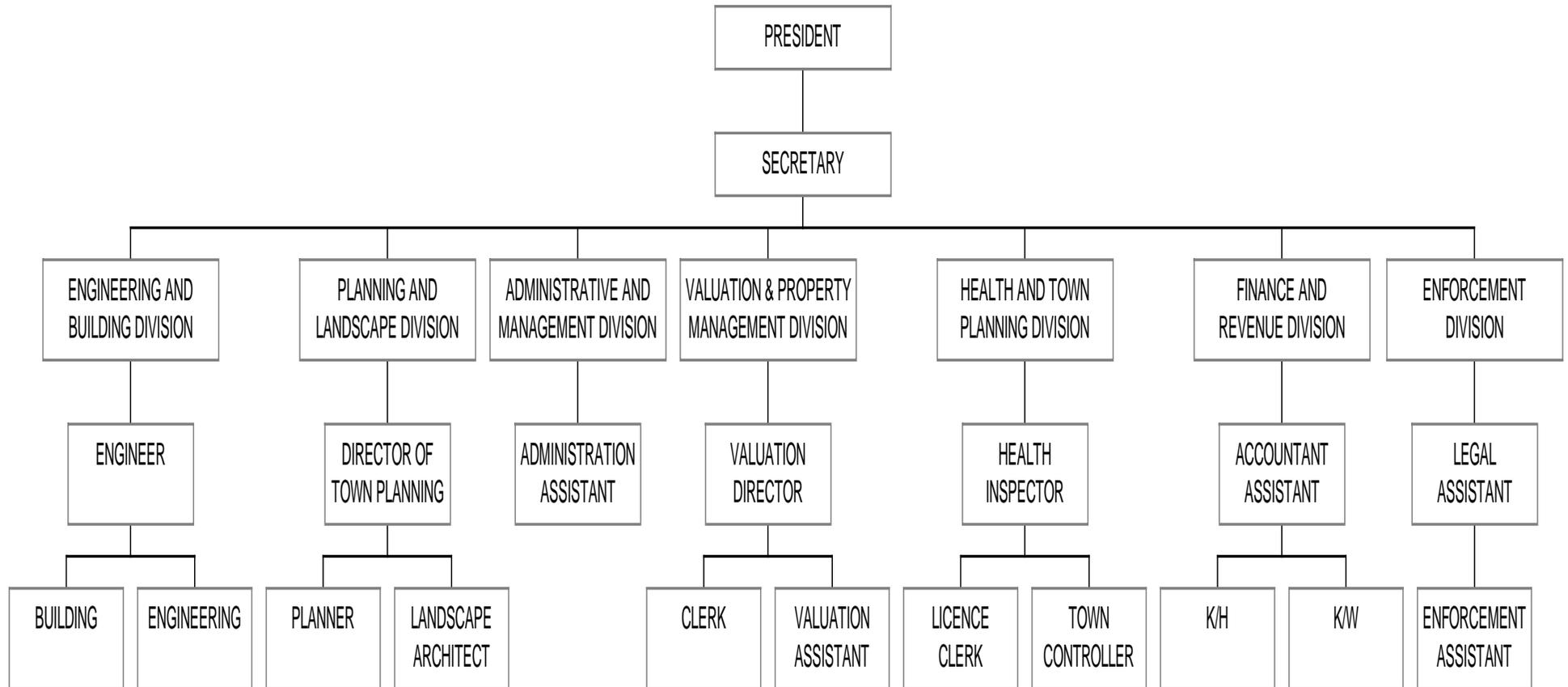


Figure 5 : Organisation Chart Of A District Council (Sepang)



**Appendix 4A  
Annex 1**

**LIST OF LEGISLATION RELEVANT TO  
SOLID WASTE MANAGEMENT IN PENINSULAR MALAYSIA**

1. Street, Drainage and Building Act, 1974
2. The National Land Code, 1965
3. Environmental Quality Act, 1974
4. Town and Country Planning Act, 1976
5. Local Government Act, 1976
6. Federal Territory (Planning) Act 1982
7. Land Acquisition Act 1960

**RULES**

8. Planning Control (General) Rules
9. Uniform Building By-laws
10. Earthworks By-laws
11. Public Cleansing By-laws
12. Anti Litter By-laws
13. Refuse Collection, Removal and Disposal By-laws
14. Environmental Quality (Licensing) Regulations 1977
15. Environmental Quality (Sewage and Industrial Effluents) Regulations 1979
16. Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 1987
17. Environmental Quality (Scheduled Wastes) Regulations 1989
18. Environmental Quality (Prescribed Premises) (Scheduled Wastes Treatment and Disposal Facilities) Regulations 1989