The Planning Act (ON)

The *Planning Act* (Ontario) is the cornerstone of land use planning in the province, establishing a framework to balance development with environmental, economic, and social priorities. For real estate lawyers, its provisions significantly shape transactional strategies, compliance obligations, and dispute resolution processes.

Planning Act, R.S.O. 1990, c. P.13

Description and summary

1. Land Use Regulation

- Governs official plans (municipal blueprints for growth) and zoning by-laws, which dictate permissible land uses, density, and development standards.
- Requires alignment of development with provincial priorities, such as protecting ecological systems, promoting affordable housing, and ensuring sustainable infrastructure.

2. Provincial Policy Integration

- Mandates that planning decisions consider matters of provincial interest (e.g., climate resilience, transit-oriented development, and accessibility).
- Includes inclusionary zoning policies in designated areas, requiring affordable housing units in residential projects.

3. Approval Processes

- Establishes procedures for site plan control, subdivision approvals, and development consents, often involving public consultation.
- Allows appeals to the Ontario Land Tribunal (OLT) if councils fail to act or decisions are contested.

Municipal Powers

Municipalities wield significant authority under the *Planning Act* to regulate land use and development, which profoundly impacts real estate transactions involving the division or amalgamation of land/lots. These powers, combined with statutory restrictions, shape the feasibility, compliance obligations, and risk profiles of such transactions.

1. Official Plan and Zoning Authority

- Official Plan (s. 16): Municipalities must adopt official plans that set development policies (e.g.,

density, land use designations, and infrastructure priorities). These plans guide all zoning by-laws and subdivision approvals.
- Zoning By-Laws (s. 34): Councils may restrict land use, building design, and lot configurations (e.g., minimum frontage, floor-area ratios). Zoning can prohibit or permit specific types of land divisions (e.g., subdividing a single lot into smaller parcels).
- Inclusionary Zoning (s. 16.4): In protected major transit station areas or areas with development permit systems, municipalities may mandate affordable housing requirements, which developers must integrate into subdivided lots.

2. Subdivision and Site Plan Control

- Subdivision Approvals (s. 51): Municipalities (or approval authorities) must review and approve plans of subdivision (e.g., land splits) under strict criteria:
  - Conformity with the official plan and adjacent subdivisions.
  - Compliance with infrastructure standards (e.g., road widths, stormwater management).
  - Public interest considerations (e.g., environmental impact, accessibility for persons with disabilities).
- Site Plan Control (s. 41): In designated areas, municipalities can impose detailed design requirements (e.g., building placement, parking, and landscaping) for lot amalgamations or developments.

3. Conditional Approval and Enforcement

- Conditions (s. 51(25)): Approval authorities may impose conditions to subdivision plans, such as:
  - Land dedication for public spaces (e.g., parks or roads).
  - Agreements to provide infrastructure (e.g., utility connections).
  - Affordable housing covenants (e.g., 20% of units at reduced cost).
- Agreements and Enforcement (s. 51(26)): Municipalities can register agreements (e.g., affordable housing covenants) against land, binding future owners. Non-compliance may trigger injunctions or fines.

Restrictions Imposed by the Planning Act

1. Design and Environmental Restrictions

- Minimum Lot Size Requirements: Zoning may mandate minimum lot sizes, preventing arbitrary divisions (e.g., a 2-acre minimum for residential lots in rural areas).
- Environmental Protections (s. 34(3.1)): Subdivisions in wetlands, steep slopes, or sensitive groundwater areas are prohibited unless exceptions are granted.
- Affordable Housing Mandates: Developers must allocate a percentage of units as affordable in designated areas (e.g., 10% in protected transit corridors).

2. Infrastructure and Service Obligations

- Mandatory Infrastructure Contributions (s. 51(25)©): Developers must fund or dedicate land for

roads, sidewalks, and utilities. For example, a municipality may require 10% of a subdivided lot to fund a new public pathway.
- Highway Widening Requirements (s. 51(25)(a)): Developers may need to widen adjacent highways if shown in the official plan.

3. Road Connectivity and Public Services

The criteria for subdivision approvals (Section 24) explicitly require that:

- Highways and their connections to the existing highway system must be “adequate.”
- Dimensions, width, and grades of roads are evaluated to ensure safe and functional access.

This includes ensuring that subdivided lots are accessible via properly designed roads and that new developments do not compromise existing traffic patterns.

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