# Ethics & Professionalism

# Supplementary Material
# Public Interest

**Public Interest and the Code of Professional Conduct**

"How does a planner distill the public interest when working towards a recommendation?"  As a professional planner, this question has critical importance in your practice.

A planner may be said to have an overarching responsibility to serve the public interest.  The first section of the CIP Code of Professional Conduct deals with the public interest and embeds the concept in the profession.  The Code identifies four minimum standards for planners in this area:

- 1.1:  Members shall practice in a manner that respects the diversity, needs, values and aspirations of the public and encourages discussion on these matters;
- 1.2:  Members shall provide full, clear and accurate information on planning matters to decision-makers and members of the public, while recognizing the employer or client's right to confidentiality and the importance of timely reporting;
- 1.3:  Members shall acknowledge the inter-related nature of planning decisions and the consequences for natural and human environments; and
- 1.4:  Members shall provide opportunities for meaningful participation and education in the planning process to all interested parties.

The public in this instance is meant as an inclusive term, encompassing individuals, institutions and organized groups.

The need for a planner to develop and present an independent professional planning opinion (section 2.1 of the Code) is directly linked to a deep understanding of what the public interest actually is.  In identifying the public interest in a specific case, a planner needs to do more than just assemble a listing of public opinion.  Public opinion, while important, is far from being the "public interest"; in fact, it is only a starting point.

**Public Interest and the Enabling Competencies**

Throughout the process of determining the public interest, a professional planner will bring into play the full range of his/her enabling competencies:

- Critical thinking:  Issues identification; problem-solving and decision-making; research and analysis; innovation and creativity; political awareness; change management;
- Interpersonal:  Integrity and trust; diversity and inclusiveness; facilitation; negotiation; collaboration and consensus building; conflict management;
- Communications:  Listening; written and oral presentation; information and knowledge; use of information technology; internal and external relations;
- Leadership:  vision; responsiveness and influence; team building; climate of excellence; managing resources and results; and
- Professional and ethical behaviour:  Ethical standards; professionalism (each facet of a planner's practice presents an opportunity for learning (even if that opportunity is not recognized as qualifying for continuous professional learning credits) and is an opportunity for him/her to draw on past learnings to inform present activities).

While all the competency domains and subdomains are important in the process, it is worth noting that integrity and trust, and the creation of a climate of excellence, underpin everything a planner does in this arena.

To engage participants in the process, and avoid any concern that s/he is acting to advance a particular (biased) viewpoint, a planner must constantly demonstrate his/her integrity towards building trust-based relationships.  A climate of excellence helps ensure that a planner is working within a performance- and results-based framework, toward achieving a positive outcome for all concerned (determining the public interest, in fact), and assists him/her in retaining a focus on both the process and its outcome, and the balance between the two.

**Public Opinion and Public Interest**

Public opinion differs from public interest in key ways, and the two should not be confused.  In brief, **public opinion** is what various stakeholders think and say about an issue.  Determining the **public interest** is an attempt to identify and address the underlying concerns **and** to balance them against one another and against interests that cannot easily be included as part of outreach, in order to reach a recommendation.  This recommendation constitutes an independent professional planning opinion and represents a "best fit" in balancing multiple interests.

Gathering **public opinion**, not surprisingly, consists of finding out what different stakeholder groups say about what they think, on a particular planning issue.  It is useful to note that the public opinion process is not merely a compilation of input on the planner's part, but requires active listening to determine what, if anything, are the root issues underlying individual statements.  As such, it may require the planner to question stakeholders about their statements to surface any background information and, ultimately, the "real" concerns.  Taking statements at face value, without probing further, can often result in incorrectly identifying and interpreting the public interest and, consequently may result in a poor planning decision – one that does not address the actual issue(s).

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**EXAMPLE**

You are a municipal planner working on a downtown intensification plan.  As a simplifying assumption, say that stakeholders unanimously tell you they are concerned that the intensification may result in undue crowding of the area in question.  On the face of it, you might conclude that the intensification is a bad idea, not in the public interest. However, the reasoning used by the various stakeholders may differ:

- One group might be concerned that the intensification does not allow enough green space
- One group might feel that existing infrastructure is inadequate to support proposed uses
- One group may worry that the intensification may change the residential character of the area (if, for instance, the proposal included high-density residential or commercial buildings)

There could, of course, be additional concerns.  Abandoning the project would certainly address those issues, but is it in the public interest?  Making a decision to walk away from the project, based just on the statement "the project will overcrowd the area", does not deal with these concerns in any meaningful way.

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Neighbours

Business
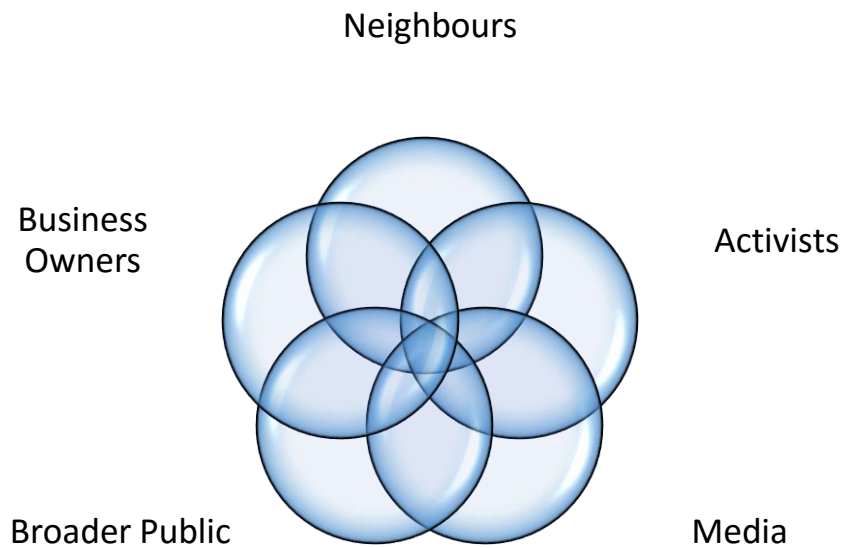Owners

Activists

Broader Public

Media

**Figure 1 – Sources of public opinion**

As a planner, you will want to identify the various groups that may have an interest in the matter (see Figure 1). There is no one-size-fits-all approach for this. Stakeholders may divide along economic, demographic or psychographic lines, depending on the case at hand. Assuming homogeneity within a group based on "obvious" methods of division can result in a flawed analysis and, therefore, a poor planning decision. Given multiple publics, it is important that planners communicate with each in an appropriate manner – this often means using different forms and different media.
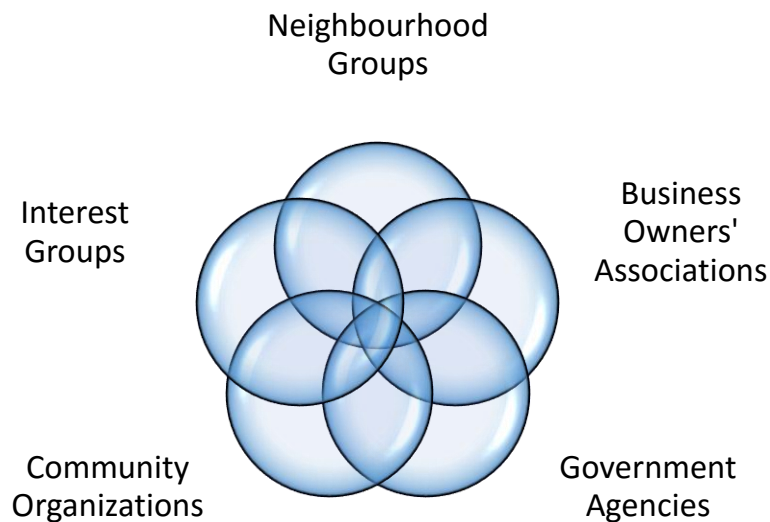
Neighbourhood
Groups

Interest
Groups

Business
Owners'
Associations

Community
Organizations

Government
Agencies

**Figure 2 – Sources of public concern**

Public concerns are often expressed through more formal organizations (see Figure 2). These organizations may have gone through differing processes to identify their concerns. Unlike the sources of public opinion, these organizations have likely developed an expression of concern as a formal organizational position. However, this does not relieve the planner of the need to engage in active listening when dealing with them.

In addition, there are those interests that cannot easily be represented at the table – future generations, the natural environment, or the cultural environment, to name three. While different stakeholders may purport to speak on behalf of one or more such groups, they may not, in fact, do so and it is ultimately your responsibility under the CIP Code of Professional Conduct to ensure these groups are truly heard. This requires big picture thinking, active listening and careful analysis.
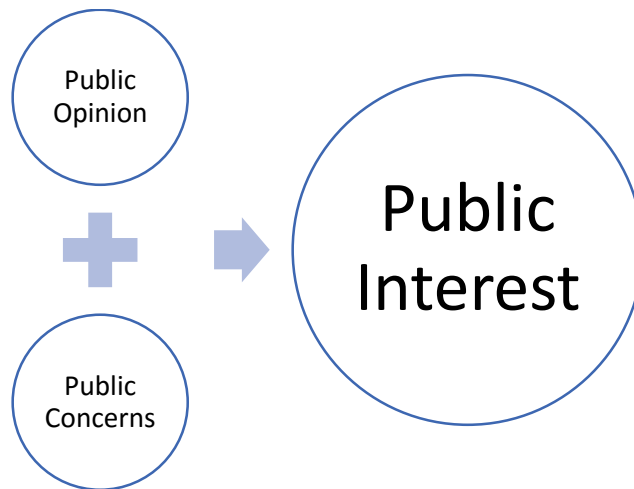


**Figure 3 – The Public Interest**

**Multiple Public Interests**

For any project, there is often more than one public interest, and it is up to you to identify and balance them.

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**EXAMPLE**

Let's take the intensification example again. Imagine a specific proposal that includes upscale retail, medium-rise office space and high-rise, upscale, residential condominiums. The area under discussion consists currently of a small amount of low-rise office space, residential duplexes, triplexes and four-plexes (predominantly rental properties), and mid-scale retail, and is a relatively cohesive neighbourhood. The proposal requires a complete and fundamental change to the area's character. Competing public interests may include:

- Broadening the area's tax-base through increasing the value of residential buildings and expanding commercial property use
- Problems that may arise as current inhabitants and businesses are displaced
    - Perceived unfairness to tenants in current residences and retail/office spaces
    - Issues around where else, within the bounds of the municipality, those tenants will go

> ○ The effects of the relocation on area families (different schools, the need to build new social alliances, etc.)
> ○ Possible resentment against the municipality on the part of those displaced
> • Destruction, at least temporarily, of a cohesive neighbourhood (this may have spill-over effects past the immediate area and beyond the current generation)
>
> It may be easy to say that improving the economy of the area by attracting new businesses and increasing the municipal tax base will encourage new jobs and permit the municipality to provide more services, thus, in big picture terms, providing "the greatest good for the greatest number" (the ethical theory of Utilitarianism – see Module 4 of the *Ethics & Professionalism* course for more information), but should it govern the entire discussion on public interest?  Does it override the other interests?  Is Utilitarianism even the best approach to reaching an independent professional planning opinion in each case?
>
> Figure 4 illustrates the "balancing act" a planner performs in this example.

While it might be ideal for you to identify a single public interest, this may not be possible (in fact, in most instances, it is not).  Thus, your independent professional planning opinion may well need to take these multiple interests into account and balance them to meet the most critical identified needs.
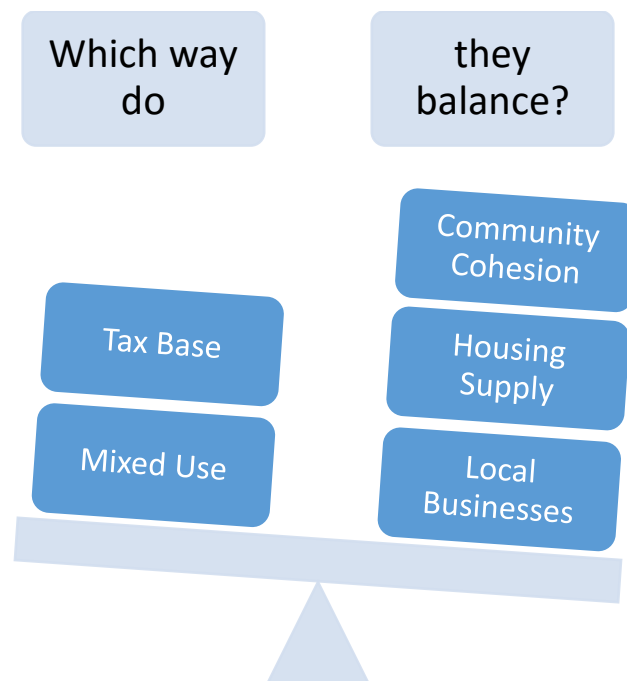


**Figure 4 – Balancing multiple public interests**

**Transparency**

Since a determination of the public interest in a specific case will not necessarily satisfy any stakeholder group completely, it is important for you to be transparent about the way in which you reach your conclusions.  Gathering information and then retiring to an ivory tower to determine what the public interest is and how it may best be served is not transparent; it risks each group being left with the

suspicion that they may not have been included in your analysis, or that one or more other groups undeservedly "got more" than they did.  In fact, it is entirely possible that a particular group may not see how your recommendation meets any of their needs or addresses any of their concerns.  If you are not transparent in reaching your recommendation, it does not matter how honest, assiduous or inclusive you actually were during your process – the *perception* of that process will govern public reaction and make it more difficult for you to present your recommendation as being in the public interest.

It may help to think of the process as a continuous feedback loop (see Figure 5).  As you gather information (including opinions), you would share these with all stakeholders and get input from them.  This input is then included in the next "iteration", so stakeholders are aware of your data and your work in arriving at a statement of the public interest.



Finalize Project/Program

Gather information

Share with stakeholders

Receive input

Revise Project/Program

**Figure 5 – Public interest feedback loop**

Throughout this process, you will rely on your communication, facilitation and problem-solving skills to ensure that everyone has a voice; that you "read between the lines" to determine the roots of various opinions and translate them into statements of differing public interests; that all stakeholders are aware of the information you have gathered and its implications; and that, at the end of the process, you can render an independent professional planning opinion on how best to serve the public interest(s) in the specific case.
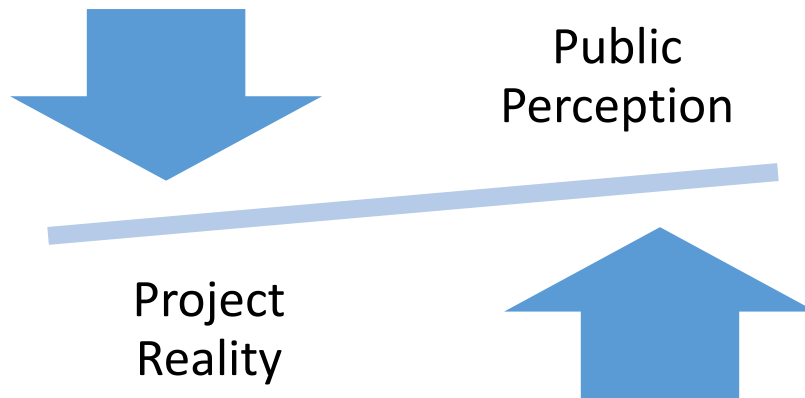
**Figure 6 – Perception versus reality**

To achieve and maintain transparency requires engaging with stakeholders to identify their opinions and potential interests.  This requires more than informing – it requires engagement, otherwise known as active consultation.  In the end, the planner balances reality and perception.

**Engagement**

Many Planning Acts (or their equivalents) mandate public consultation in specific instances.  This is often fulfilled by the holding of one or more town hall meetings, where stakeholder groups, including the general public, are invited to attend and participate in discussion of a specific initiative.  However, the town hall approach, which is considered as a basic, obligatory approach to meet the minimum requirement for public consultation, raises some questions which planners must consider:

- Will all relevant stakeholders avail themselves of the opportunity to attend the meeting(s)? There is clear evidence that some stakeholder groups do not, in fact, attend town halls.
- Will those in attendance participate in the discussion?  Attendance is not the same as participation; there are a number of reasons for this of which planners should be aware.
- Given a predefined total time for a specific meeting, and (in some cases) limits on participants' speaking time, how can planners ensure they have a full and accurate understanding of all the perspectives presented?

Planners have addressed these questions in a variety of ways, either alone or in combination, which have expanded the utility of the public consultation process and improved the quality of the resulting information.  Some of these are:

- Making relevant project information available on a website or in print (updates as new information becomes known may also help)
- Using social media to engage with stakeholders
- Administering on-line or telephone surveys
- Holding one-on-one interviews with representatives of stakeholder groups
- Displaying project information in public places (libraries, etc.)
- Holding on-street interviews
- Convening focus groups

It may be said that there are three components to engagement: inform; obtain feedback; and promote/engage in discussion. The process is, once again, often iterative, as shown in Figure 7.
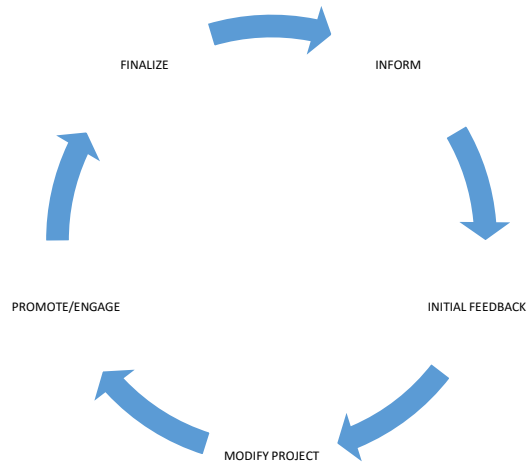


**Figure 7 – Iterative engagement process**

*Inform*

Uninformed opinion may be useful in identifying in-built perspectives or prejudices (such as NIMBY-ism ("not in my back yard")) that may *affect* the definition of public interest in a specific case, but is rarely helpful in *arriving at* a meaningful definition and does not truly advance that process. Ensuring that the public and stakeholders are correctly and fully informed about an initiative not only helps planners meet their responsibility to the public interest (specifically as expressed in section 1.2 of the Code); it also promotes meaningful discussion and mutual learning, helps surface issues which merit consideration, and ultimately assists planners in facilitating a determination of the public interest. Thus, the planner's first task in determining the public interest is to get information to those who need it, in a form that is accessible to them.

*Initial Feedback*

Having ensured information is available to those concerned, the next engagement component is to obtain feedback on that information from the public and specific stakeholders. It should be noted that there is significant overlap in timing between obtaining feedback and promoting discussion, and that the two may occur simultaneously (as, for example, at a town hall meeting); thus, the distinction being made here is, to some extent, not fully reflective of what planners encounter in their daily practice.

As mentioned at the beginning of this section, there are many methods open to planners to begin the engagement process and begin building trust and respect, and promoting mutual learning and knowledge sharing – some of them are (or can be) relatively one-way (such as on-line surveys), while others provide a high level of interaction. Previous experience and an assessment of the individual project will guide the planner in determining which method(s) will best assist in obtaining feedback. Suffice it to say that, whatever method(s) are selected, listening skills and the ability to identify issues are critical at this juncture.

*Modify Project*

Once initial feedback has been obtained, there may be a need to modify the project to reflect the concerns which have been expressed, or to alter the way the project information is being presented to clarify the way(s) in which those concerns have been addressed.

*Promote/Engage in Discussion*

At this stage, the planner has the opportunity to open discussion with the public and other stakeholders. Facilitation, communication, team building and problem-solving skills are particularly important here, although the planner will draw on virtually all the enabling competencies. Some planners have found that engaging stakeholders in the design of the public interaction process is very helpful – it not only ensures that the process is fulsome, but helps demonstrate transparency and build mutual trust. The purpose of discussion is to surface and clarify/define issues, clear up misconceptions, and work towards a consensus on what the issues are and how they might be resolved or addressed within the context of a definition of the public interest.

*Finalize Project*

At this point, the planner and others involved in the project will want to consider further modifications to the project to reflect the issues and learnings of the engagement process to date. As noted above, engagement is often iterative, so "finalizing" the project may lead to a further round of consultation with the various publics.

**Unrepresented Stakeholders**

Subsection 1.3 of the Code requires that planners "acknowledge the inter-related nature of planning decisions and the consequences for natural and human environments." To some extent, these environments may be considered as "unrepresented stakeholders," unable to speak for themselves. This is particularly true of generations yet unborn (as part of the human environment). It is incumbent on planners, in arriving at a definition of the public interest in a particular case, to take these "stakeholders" into account.

**Governmental Context**

As represented in Figure 2, above, government is a source of expression of public concern. Indeed, legislation, regulations, policy statements, official community plans as developed by various tiers of government, and local by-laws provide a context within which planners must work and planners must be aware of this context. Figure 8 is a graphical representation of this context for a project being considered for a municipality in the Oak Ridges Moraine conservation area in Ontario:
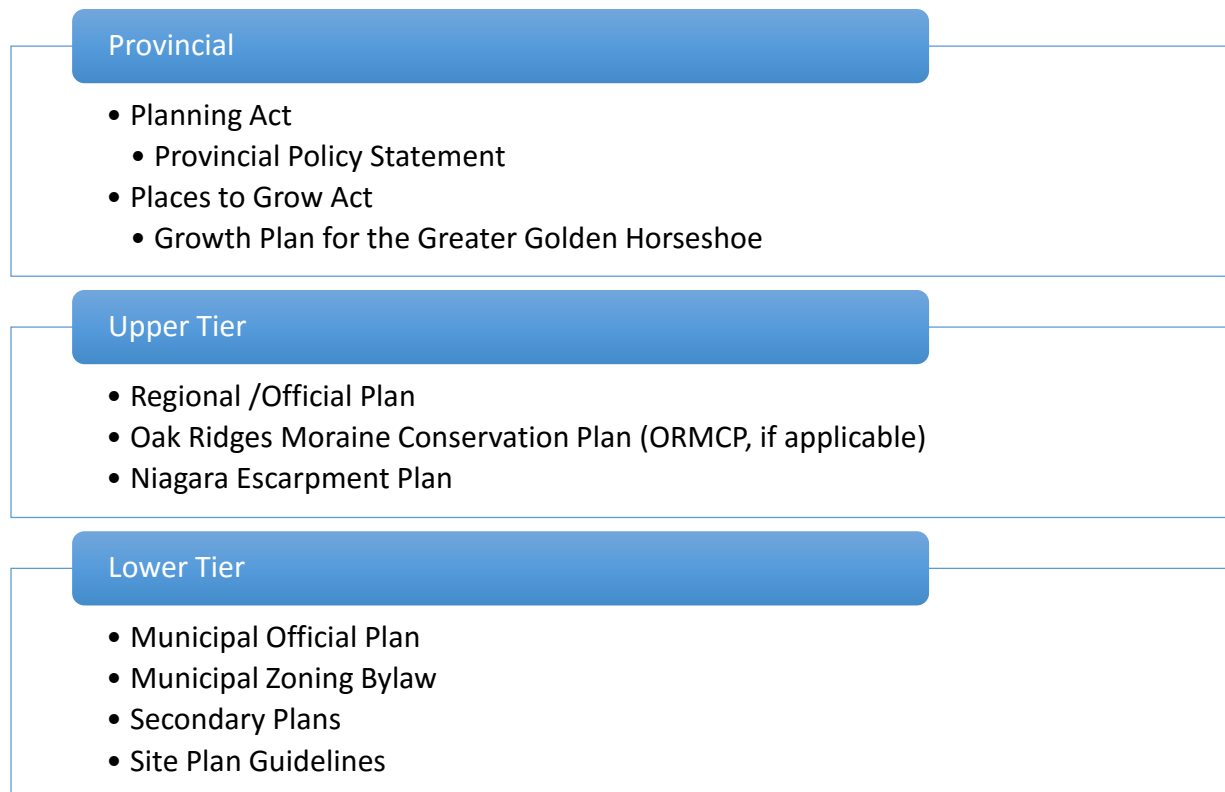
## Provincial

- Planning Act
    - Provincial Policy Statement
- Places to Grow Act
    - Growth Plan for the Greater Golden Horseshoe

## Upper Tier

- Regional /Official Plan
- Oak Ridges Moraine Conservation Plan (ORMCP, if applicable)
- Niagara Escarpment Plan

## Lower Tier

- Municipal Official Plan
- Municipal Zoning Bylaw
- Secondary Plans
- Site Plan Guidelines

**Figure 8: Government context – Southern Ontario**

**Definition of the Public Interest in a Specific Instance**

Having gathered public input, considered legislative, regulatory and policy constraints and initiatives, engaged in discussion with the public and specific stakeholder groups, and having considered the needs of unrepresented stakeholders, a planner must reach a recommendation, expressed as an independent professional planning opinion, of a definition of the public interest for a particular project.

While there are, as noted earlier, no guidelines or checklists in reaching such a definition, it may be worthwhile to consider the concept of sustainability as establishing **broad** decision criteria. Although this is not the only model which can be used (some other possible models are healthy communities and quality of life). A sustainable decision is one which evaluates the impacts of a decision on three different environments – social, economic and environmental – and attempts to balance them. Sustainability can be represented graphically in at least two ways:

- As a series of concentric circles, with economy in the centre, social as an intervening layer, and environment as the outermost, constraining circle (this aligns with the "triple bottom line" business model); or
- As a Venn diagram of three overlapping circles:
    - Economic and social considerations overlap to provide equity;
    - Social and environmental considerations overlap to produce a "bearable" situation;
    - Environmental and economic considerations overlap to produce viability; and
    - All three considerations overlap to produce sustainability.

Individual practitioners, of course, may identify or develop models more apt to their own practices and preferences, and the suggestion of the sustainability model is in no way intended to be prescriptive.

**Independent Professional Planning Opinion**

As mentioned, the planner's definition of the public interest in a specific case is expressed as an independent professional planning opinion.  This is by no means the only time a planner develops such an opinion; indeed, there are many times over the life of a project where this can occur.

Section 2.1 of the Code states in part that "Members shall provide [an] independent professional opinion to clients, employers, the public and tribunals…"  Such an opinion is:

- Informed by legislative, regulatory and policy considerations and constraints;
- Framed by existing community and secondary plans and by-laws (although it may recommend amendment of those plans);
- Prepared free of any interests or biases the planner may have;
- Developed without the influence of external biases (partially discussed in the sections of the Code bearing on conflicts of interest);
- Transparent in development;
- Diligently prepared;
- Respectful of the values held by the client or employer, unless such values conflict with other aspects of the Code; and
- Defensible, both internally (to colleagues/team members, the employer and the client) and externally (to the public and other stakeholders).
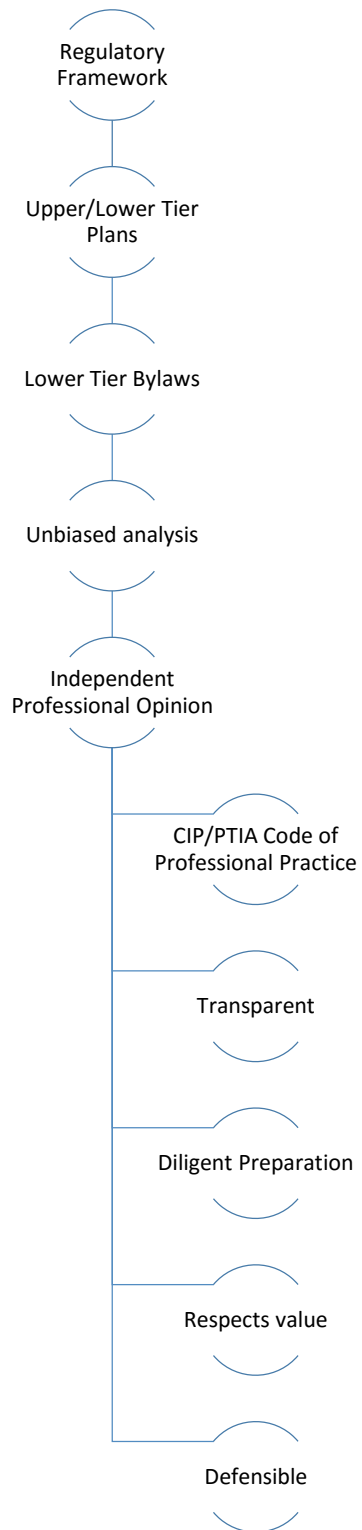
**Figure 9 – Your independent professional planning opinion**

Ensuring respect for the values of the client and/or employer may involve discussion, explanation and, in some instances, negotiation of the opinion. While an individual planner prepares his/her opinion to the best of his/her ability, no one is omniscient, and the perspectives of others do need to be considered

before any opinion is issued.  If conflicting positions are stated at any stage in the process, including up to the last minute, the planner will need to consider them fairly and negotiate/resolve those positions.

**Reconciling Multiple Public Interests**

As noted above, a particular project often presents more than one public interest.  Going back to the intensification example, and in no particular order, these might be:

- **Municipal:**  broadening the tax base; delivering more services to residents; preserving existing green spaces by increasing population density; providing sufficient infrastructure/minimizing impact on existing infrastructure; and (although not mentioned in the example), reuse of brownfield lands.
- **Residents:**  receiving more services; preserving a neighbourhood (including its sense of community); and providing employment opportunities.
- **Public Policy:**  broadening the tax base; delivering more services to residents; providing employment opportunities; preserving green spaces; reuse of brownfield lands (again, not identified as an issue in the example); respecting an existing neighbourhood (including its sense of community); providing sufficient infrastructure/maximizing impact on existing infrastructure; and respecting the rights of tenants in the neighbourhood.
- **Client/Developer:**  economic opportunity to generate or increase profits for shareholders, owners, and/or partners, and employment opportunities for employees; enhancing lifestyle options in the area; increasing employment and housing options in the municipality; and leveraging under-used assets for the benefit of the broader community.
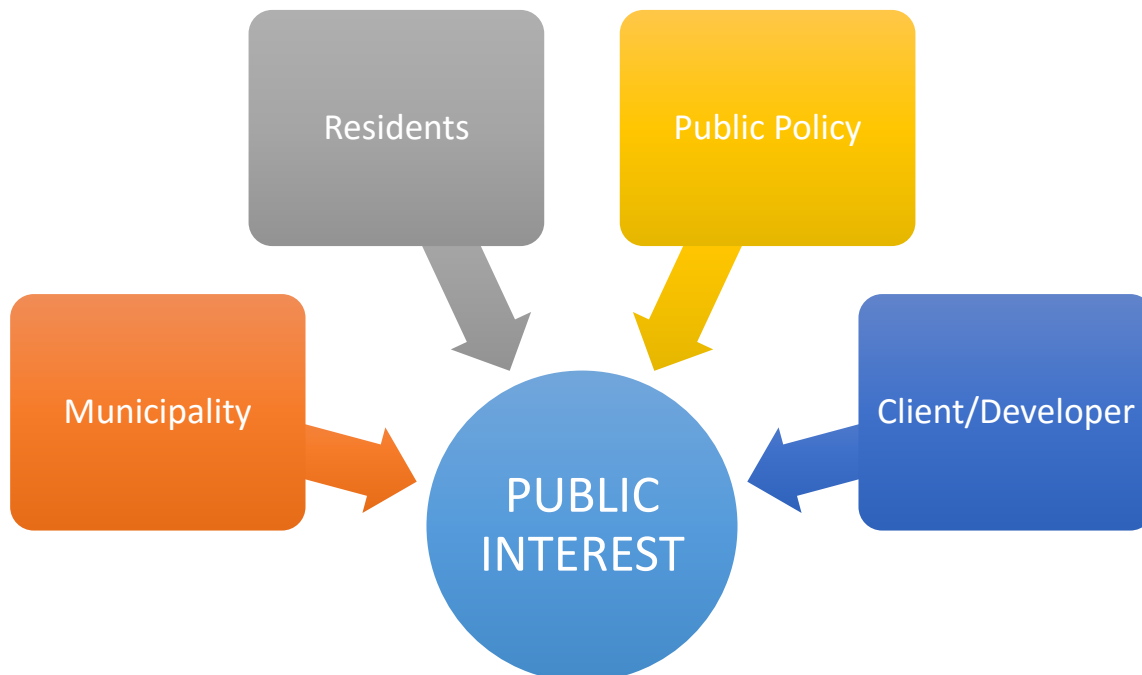


**Figure 10 – Public interest summarized**

These concerns are not necessarily mutually exclusive but, where they conflict, it is the planner's responsibility to attempt to reconcile them.  Where reconciliation is not possible, this may involve the

planner in determining which interest should take priority.  Such prioritization should not be done lightly, and requires the planner, as exemplified in the vision subdomain of the leadership competency, to "apply a critical, integrative thinking approach to issues."