

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf. Regional Official Plan Review

DATE 26 May 1997

TO/DEST. Co-ordinator
 Planning & Environment Committee

FROM/EXP. Commissioner
 Planning and Development Approvals Department

SUBJECT/OBJET **RESPONSE TO P&EC INQUIRY NO. 33
LEGAL AND FINANCIAL IMPLICATIONS
OF DRAFT REGIONAL OFFICIAL PLAN**

DEPARTMENTAL RECOMMENDATION

That the Planning and Environment Committee and Council receive this report for information.

PURPOSE

At the Planning and Environment Committee meeting of 8 April 1997, Councillor Hill asked that staff prepare a report showing the financial impact (costs) of implementation of the policies contained in the Draft Regional Official Plan. As well, she asked if legal staff had reviewed the legal implications of implementing many of the policies, and whether the Region has the authority to implement all of the policies included in the Plan.

FINANCIAL IMPACTS

The Draft Regional Official Plan provides, through its Regional Development Strategy (RDS), the basis for comprehensive and integrated decision making affecting planning, including land use, water and wastewater and transportation services. It also provides an affordable strategy to allow for the orderly growth and development of the Region.

Implementation of the proposed RDS is expected to require approximately \$1.6 billion (gross capital costs) in regional infrastructure. This represents a significant expected saving of \$2 billion in relation to the estimated cost of \$3.6 billion for the current Regional Official Plan. This is the consequence of the integrated and affordable land use planning and infrastructure strategy approved by Council.

When the RDS was adopted by Regional Council on November 13, 1996 it was accompanied by the Finance Department's September 17, 1996 report entitled "Regional Development Strategy (RDS): Municipal Financial Impact Update."

As noted in that report, the "objective of the Municipal Financial Impact analysis is to determine whether the capital infrastructure required in the proposed RDS along with the yearly operating requirements can be funded with no increase in regional taxes or user rates over the 25 year planning period. To assist in the analysis, separate service area models for Roads, Public Transit (including O-C Transpo) Water and Wastewater were developed."

The conclusion of the analysis was that the required yearly increases in either mill rates or user fees are limited to the rate of inflation.

Following the September 17, 1996 Finance Department report and Council's adoption of the RDS on November 13, 1996, the province proposed changes to the funding of a number of programs including transportation.

Attached as Annex 1 is a copy of the Finance Department's May 29, 1997 report entitled "Regional Development Strategy: Transportation Master Plan Municipal Financial Impact Update" which incorporates the provincial "Mega Week" announcements and other relevant information.

As noted in this report, there was no impact on the Water/Wastewater Master Plans infrastructure costs since no provincial subsidy was assumed to be available to fund either the operating or capital costs of these services.

The impact on the Transportation Master Plan (Roadways and Transit) is as described in the report. In summary, the provincial "Mega Week" announcements concerning transfer of service and funding responsibilities will have a significant impact on the future level of property tax support required to fund municipal services. This is especially true for many of the current provincially cost-shared programs such as public transit. It must be noted that any increased property tax requirement must be considered in the context of the "Mega Week" announcements and the subsequent amendments which will see the residential property tax for school purposes reduced by 50% in 1998.

STATUTORY BASIS AND EFFECT OF AN OFFICIAL PLAN

The matters to be dealt with in an official plan are set forth in the *Planning Act*, section 16. Section 16 reads as follows:

16(1) An official plan,

- (a) shall contain goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality or part of it, or an area that is without municipal organisation; and

- (b) may contain a description of the measures and procedures proposed to obtain the objectives of the plan and a description of the measures and procedures for informing and obtaining the views of the public in respect of a proposed amendment to the official plan or proposed revision of the plan or in respect of a proposed zoning by-law.

The general legal effect of an official plan is set forth in the *Planning Act*, subsection 24(1) which reads:

24(1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith.

The Planning and Development Approvals Department provided to the Legal Department drafts of the Official Plan prior to its release to the public in order that the draft Official Plan could be reviewed on the basis of legal conformity with the *Planning Act* and other relevant legislation. Legal and Planning staff also met in December, 1996 and January, 1997 to discuss the contents of the Draft Official Plan.

As noted in the *Planning Act*, section 16, the primary purpose of an official plan is to provide policies and recommendations with respect to physical change within the region or municipality in question. The *Planning Act* is silent as to what the subsidiary or non-primary purposes of an official plan can be. The legal effect of an official plan is set forth in the *Planning Act*, section 24 which provides an official plan with a very broad legal effect, effectively rendering invalid any by-law which does not conform to the Regional Official Plan. Given the wording of the *Planning Act*, sections 16 and 24, it is submitted that, in addition to managing and directing physical change, an official plan may contain policies that deal with other matters within the jurisdiction of the *Planning Act* such as the use of land, dealt with under the *Planning Act*, section 34, and site plan concerns, dealt with under the *Planning Act*, section 41 even though the implementing body for such measures is a local municipality.

It is within this framework that the draft Regional Official Plan was reviewed by the Legal Department, as well as the Planning and Development Approvals Department. In reviewing the draft Regional Official Plan, the Legal Department was satisfied that the policies presented in the plan were reasonably within the authority of an official plan as set for in sections 16 and 24.

With respect to the question of the legal ability of the Region to implement all of the policies in the draft Official Plan, it is necessary to divide the policies into two areas. The first area is that of the mandatory policies. Such policies may require a particular course of action to be taken or limit the permitted uses or the pattern of development. The ability of the Region to implement these policies is dependant upon the Region's role as an approval authority and the effect of the *Planning Act*, section 24. In the opinion of the Legal Department, the case can be reasonably made that those policies of a mandatory nature within the draft Official Plan can legally be implemented by the Region.

On the other hand, certain of the policies suggest or encourage, rather than require, a particular course of action. Such policies express a statement by Regional Council as to the desirability of a particular goal or the appropriate manner by which to achieve a particular goal.

It is the opinion of the Legal Department that the non-mandatory nature of such policies would permit them to be included within the Regional Official Plan whether or not they come within the scope of the *Planning Act* as set forth in section 16. The implementation of such non-mandatory policies would of course be at the discretion of the council or other body or authority to whom such policies are directed.

Approved by
N. Tunnacliffe, MCIP, RPP

Attach.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
 MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

DATE	29 May 1997
TO/DEST.	Co-ordinator Transportation Committee
FROM/EXP.	Finance Commissioner
SUBJECT/OBJET	REGIONAL DEVELOPMENT STRATEGY: TRANSPORTATION MASTER PLAN MUNICIPAL FINANCIAL IMPACT UPDATE

DEPARTMENTAL RECOMMENDATION

That the Transportation Committee receive this report for information.

PURPOSE

At the May 7, 1997 Transportation Committee meeting, staff were requested to provide Committee members with an update on the affordability of the Transportation Master Plan in light of the provincial announcements on changes in operating and capital funding for transportation and transit purposes.

The purpose of this report is to provide Committee members with a financial impact update which incorporates the provincial announcements and other relevant information.

BACKGROUND

On September 23, 1996, Regional Council received for information a report entitled "Regional Development Strategy (RDS): Municipal Financial Impact Update". The purpose of the report was to review the assumptions contained in the original report submitted to Council in June and update Council on the affordability of the RDS which incorporated:

- 1) the reduction in public transit subsidy for capital purposes from 75% to 50%; and
- 2) the effects of different inflation assumptions.

Affordability was defined as the ability to fund both the operating and capital requirements of the respective master plans without the need for increases in either mill rates or user fees.

Based on the assumption of an annual two percent inflation rate, it was concluded that the funding of the Roads, Transit, Water and Wastewater master plans could not be funded without a similar increase in mill rates or user fees. Details of the analysis are contained in the September 23, 1996 report.

PROVINCIAL ANNOUNCEMENTS

Overview

The provincial announcements made during “mega week” dealt with the transfer of service and funding responsibilities which were to be effective January 1, 1998. As Committee is aware, the financial impact of the original announcements was estimated to result in a taxation shift for municipal services to the Ottawa-Carleton property tax base of \$516 million through the elimination or reduction of provincial subsidy and through the transfer of new responsibilities to municipalities. The Province was to offset this shift by assuming \$393 million of new funding responsibilities by eliminating the residential property tax for school purposes.

As a result of the more recent provincial announcements, this shift to the property tax base is now estimated to be \$279 million with the Province assuming \$197 million through a 50% reduction in the residential mill rate for school purposes. Details of this recent announcement were provided to Council in the May 1 report entitled “*Provincial Announcement - Transfer of Service and Funding Responsibilities*”.

It is uncertain at this time what the actual impact will be in 1998 on an average residential property tax bill. What is certain is that municipal services will be funded to a significantly greater degree in 1998 by property taxes than in 1997. This will be offset by the 50 % reduction in the residential property tax mill rate for school purposes. At present, the funding shift to the Region is estimated to be \$82 million greater than the Provincial offset in school mill rates. It is hoped that over the course of the year, this imbalance will be reduced as more details are provided by the provincial government.

Impact on Master Plans

a) Water / Wastewater

No provincial subsidy was assumed to be available to fund either the operating or capital costs of these two services.

b) Roads

Minimal provincial subsidy was attributed to roads to fund either the operating or capital costs of the service. However, the province has announced that several provincial highways will be transferred to the Region at an estimated annual cost of \$9 million. Included in this estimate are annual maintenance costs, annualized capital life cycle costs and additional policing costs.

The province has provided one time funds to help offset some of the capital costs associated with this transfer.

The recent provincial announcement also refers to the ability of municipalities to obtain additional funding for transportation needs from the “Municipal Capital and Operating Restructuring Fund”. In addition, net revenue from provincial offences will now be directed to municipalities. The financial impact of these two announcements on the Road Master Plan is not clear at this time. Therefore, for purposes of this report it is assumed that the financial impact of these announcements will not have any significant impact on conclusions presented to Council in the September report.

c) Transit

The loss of both operating and capital subsidy for public transit in 1998 will result in a significantly larger portion of this service being funded from property taxes. It is estimated that in 1998, \$48 million in additional property taxes will be required to offset the loss of provincial subsidy. However, as mentioned previously, this additional requirement will be offset by a portion of the 50 % reduction in the residential property tax mill rate for school purposes.

In order to assess the impact of this loss of funding on the Transit Master Plan, the service area model utilized in the June and September affordability analysis, has been restated to reflect the recent provincial announcements and to incorporate any other information that would be relevant to the analysis.

Adjustments to the Transit Service Area Model

Provincial Subsidy	-OC Transpo operating subsidy eliminated from 1998 onward -Public transit capital subsidy eliminated from 1998 onward
Bell Canada Revenues	-Eliminated from 1998 onward
1997 Data	-Updated to reflect 1997 Adopted Operating and Capital Budget
1998 Property Taxes	-1998 mill rates restated to reflect \$48 million subsidy loss
Bus Replacement Program	-Financing of the local share of 290 buses by the Region as approved by Council in December
West Transitway Program	-Phase 2 included in 2007 and 2008
Depreciation Accounting	-Yearly increases in OC Transpo net tax requirement to reflect financing strategy as presented to Council in December
Mill Rate Transfer	-Increases in the Transit mill rate from 1997 to 2002 to reflect the corresponding phase out of the Sewer Capital Levy.

MUNICIPAL FINANCIAL IMPACT UPDATE - TRANSIT MASTER PLAN

The analysis conducted consisted of incorporating the previously noted changes into the Transit service area to first determine the size of the funding shortfall under the assumption of two percent yearly inflation on operating costs but with no increase in mill rates or fares.

Secondly, mill rates and fares were increased yearly by the rate of inflation to determine what funding shortfall remained.

Annex A summarizes the results of the above analysis along with the results as presented to Council in the September 23, 1996 report.

CONCLUSION

The provincial announcements with respect to the transfer of service and funding responsibilities will have a significant impact on the future level of property tax support required to fund municipal services. This is especially true for many of the current provincially cost-shared programs such as public transit. It must be noted that any increased property tax requirement must be considered in the context of the “mega week” announcements and the subsequent amendments which will see the residential property tax for school purposes reduced by 50% in 1998.

*Original signed by
J.C. LeBelle*

**Public Transit
Summary of Models
1996 - 2021**
(Assumes 2% Annual Inflation)
In \$Millions

	As Tabled Sept/96 In 1996 Dollars Assumes 50% Subsidy		Restatement as a Result of Megaweek * In 1996 Dollars Assumes No Subsidy beyond 1997	
	No Mill Rate/ Fare Increase	2% Rate / Fare Increase	No Mill Rate/ Fare Increase	2% Rate / Fare Increase
Operations				
Total Tax Revenues	1,740	2,125	3,041	3,527
Total Passenger Revenues				
- OC Transpo	1,994	2,543	1,995	2,544
- Para Transpo	28	28	28	28
- Other	53	53	53	53
Subsidy	584	584	60	60
Total Revenues	4,400	5,333	5,178	6,212
Total Operating Expenditures				
OC Transpo Regular Operations	4,249	4,249	4,251	4,251
Para Transpo	330	330	330	330
Debt Charges	12	12	15	15
PAYG Contributions	798	793	1,532	1,556
Other	75	75	59	59
Total Expenditures	5,464	5,459	6,188	6,212
Additional Funding Requirement	1,064	126	1,010	0
Total Net Capital Expenditures				
Transit Master Plan & Capital Mtce	388	388	735	735
OC Transpo	497	497	919	919
Total Net Capital	884	884	1,653	1,653
Total Financing				
Reserve Funds	823	823	1,585	1,585
Regional Development Charges	61	61	69	69
Total Financing	884	884	1,653	1,653
2021 Reserve Fund Position				
Capital Reserves	3	2	1	40
Regional Development Charges	10	10	1	1

* - 1998 will require additional tax revenues of \$48.0M to reflect the loss of Operating and Capital Subsidy as announced by the Province . Subsequent yearly mill rate increases of 2% will provide sufficient tax revenues to fund the Operating & Capital requirements of the Transit Master Plan.