



COMMITTEE OF THE WHOLE

Report No. 19-021

19 February 2019

Adoption of Education Development Charges By-law (2019-2024)

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PURPOSE:

1. To obtain Board approval for the adoption of the Education Development Charges (EDC) By-law attached as Appendix A, for implementation within the jurisdiction of the Ottawa-Carleton District School Board effective, 1 April 2019.

CONTEXT:

2. Under the Ministry's education funding formula, the collection of education development charges is the main source of funding for growth-related education land costs. These are costs incurred by a Board to acquire and prepare land as a result of the need to build new schools in areas of new development. The province's capital funding formula does not include a separate per-pupil grant to fund the purchase of new school sites.

On 25 March 2014, the OCDSB adopted EDC By-law No. 02-2014. This By-law served to implement the collection of EDCs across the jurisdiction on 1 April 2014. The Board's EDC By-law is currently in force, but scheduled to expire on 31 March 2019. The current EDC rates are \$723.00 per new residential unit and \$0.52 per new square foot of non-residential development.

Revenue generated for the District through the collection of EDCs is estimated to be in the order of \$27million at the time of the By-law's expiry. This revenue has served to fund the purchase of four elementary school sites and one secondary school site, as well as site preparation costs for a number of projects.

The OCDSB continues to experience accommodation pressures in growth areas of its District. It is expected that these pressures will continue over the course of the next 15 years. As such, the continuation of the collection of EDCs is an important strategic consideration.

In order to continue to collect EDCs after 31 March 2019, the Board was required to initiate a study to consider the adoption and implementation of a new By-law. In May 2018 the OCDSB (and its three coterminous local school boards) retained the Quadrant Advisory Group to assist staff in completing the process.

As part of the EDC By-law renewal process, staff has reported to trustees on a number of previous occasions:

- i. On 27 April 2018: Memorandum No.18-067, EDC Bylaw Renewal Update, regarding the process and work plan involved in the consideration of a new EDC By-law and the need to hire a consultant to assist staff with the required work;
- ii. On 18 September 2018: Report No.18-088, Education Development Charges Policy Statement Decision-Use of Operating Reserves and Alternate Accommodation Arrangements, presented at Committee of the Whole regarding the approval of motions to address opportunities to reduce growth-related education land costs as part of the implementation of a new EDC By-law;
- iii. On 19 October 2018: Memorandum No.18-130, Temporary Cap on Education Development Charges, regarding amendments to Ontario Regulation 20/98, Education Development Charges-General, and the resulting temporary cap on EDC rates;
- iv. On 11 January 2019: Memorandum No.19-002, Education Development Charges Background Study, regarding the completion of the Board's 2019 EDC Background Study and its submission to the Ministry of Education;
- v. On 15 January 2019: Report No. 19-005, Education Development Charges-Existing By-law Policy Review, presented at the Special Committee of the Whole meeting regarding a review of the policies of existing By-law No. 02-2014; and
- vi. On 15 January 2019: Report No.19-004, New Education Development Charges By-law (2019-2024), presented at the Special Committee of the Whole meeting regarding the completion of an EDC Background Study and implementation of a new By-law.

KEY CONSIDERATIONS:

3. Imposition of a Temporary Cap on EDC Rates

As outlined in Memorandum No. 18-130, Temporary Cap on Education Development Charges, (19 October 2018) the Ministry amended Ontario Regulation 20/98, which governs the implementation of EDCs within the province.

The amendments serve to maintain the status quo with respect to the collection of EDCs until the Ministry has completed a review of the policy framework surrounding the charges. Until that review is complete, EDC rates will be frozen

at levels no higher than those contained in existing by-laws, geographic areas covered will not be able to be changed, and those school boards without by-laws in place may not adopt new ones.

With status quo EDCs in place, a background study for the OCDSB was commissioned in order to be able to adopt a new successor By-law for implementation on 1 April 2019. The study will also determine what rates should be in force in order to recover 100% of the District's growth-related net education land costs. Those figures will assist the District in identifying any shortfall in collections incurred during the temporary freeze period.

4. **Education Development Charges Background Study 2019**

The legislatively required EDC background study has been completed. The study was submitted for approval to the Ministry of Education on 18 December 2018. In accordance with the requirements of the legislation, copies of the study were forwarded to the three coterminous school boards and the City of Ottawa, and made available to members of the public.

The background study includes the identification of 20 new elementary school sites and three secondary school sites during the review period.

These sites are generally located in areas of the District where accommodation pressures exist and where ground-oriented residential development is forecasted to continue to be strong over the next 15 years. Suburban growth areas where sites are required outside of the greenbelt include Kanata, Stittsville (Fernbank), South Nepean, Riverside South, Findlay Creek and Orleans.

The background study document also includes the identification of sites in a number of rural locations (the Villages of Greely, Manotick, and Richmond), and parts of the inner area (the Ottawa West and Central review areas, and Wateridge Village – Rockcliffe).

In accordance with the appraised estimate of land values completed by the Altus Group of Ottawa and assumptions regarding future site preparation costs, the above-noted new school site requirements result in a total growth-related net education land cost of \$94,762,670 million (including associated study costs and forecasted financial obligations) which is to be funded over the 15 year projection period.

The calculated charges contained in the 2019 EDC Background Study are as follows:

- \$787.00 per new residential dwelling unit; and
- \$0.58 per new square foot of non-residential gross floor area.

The above charges represent a respective increase of 8.9% and 11.5% from the in-force charges per new residential unit (\$723.00) and new square foot of non-residential gross floor area (\$0.52). The charges reflect a status quo with respect to the key policy decisions made previously by Board in March of 2014.

5. **Key Policy Decisions**

There are a number of policy decisions that form the foundation of the calculation of an EDC. Typically, all of these are brought before the Board as part of the decision-making process associated with adoption of a new EDC By-law.

The charges included in the proposed 2019-2024 EDC By-law (attached as Appendix A) are required to be frozen as a result of the October 2018 amendments to Ontario Regulation 20/98. As result of this, almost all of the decision-making surrounding these policy areas has been significantly limited as part of the current By-law adoption process.

No change can be made which would serve to increase an EDC beyond that which was in place on 31 August 2018.

Below is a brief description of the specific policy decision areas, and a statement respecting the scope of decision-making available to Board within the current new By-law adoption process.

6. Application of EDCs Jurisdiction-wide

In accordance with the legislation governing education development charges, a school board may choose to implement a jurisdiction-wide charge or an area-specific charge. The Board's current By-law continued the application of the charge jurisdiction-wide, a decision which was first made by the Board in 2004.

The levying of EDCs in Ontario is understood by many to be a collective responsibility, rather than a service-oriented, benefits-derived charge. The application of EDCs in this manner is consistent with the funding of similar public amenities and services.

A jurisdiction-wide charge serves to lower the quantum of the charge as the net education land costs are spread across a greater number of units and gross floor area. EDCs can only be used to fund need within the geographic area in which they were collected. The implementation of a jurisdiction-wide EDC provides the Board with the flexibility to consider the use of EDC proceeds in any part of the school district experiencing enrolment growth.

Given the temporary freeze on EDCs there is no ability for the Board to consider any change to the geographic structure of the EDC By-law. The Board must adopt a jurisdiction-wide charge.

7. Application of a Differentiated Residential Rate

The legislation permits a Board to consider the application of a uniform or differentiated residential rate. The Board's current By-law is based upon a uniform residential rate. All of the EDC By-laws implemented within the Ottawa-Carleton area since 1992 have utilized a uniform residential rate.

The EDC background study calculates future pupil place needs by area by applying a historical pupil yield by type of residential unit. A differentiated rate would more closely link a proposed charge to a unit's forecasted pupil yield.

While the application of a differentiated rate would link collection more closely with need, it might also leave the District more vulnerable to shifts in the development market and the potential for revenue shortfalls. Historical feedback from representatives of the development community during previous processes has supported the implementation of a uniform residential rate.

As a result of the temporary freeze on EDCs, there is no ability for the Board to consider the adoption of a differentiated residential rate. A change such as this would serve to increase the charge for lower density residential units with higher pupil yields.

8. Inclusion of Non-Statutory Exemptions in the New EDC By-law

The regulations governing the implementation of EDCs list a number of statutory exemptions. These are exemptions which are required to be included within the By-law in accordance with the legislation. These statutory exemptions include land owned by, and used for, the purposes of a board or municipality, residential and industrial intensification (as per the regulations), and residential and non-residential replacement (as prescribed in regulations).

Revenue lost through the provision of non-statutory exemptions within the By-Law is foregone and not recoverable from any other source such as increasing the levy on other categories of buildings.

The Board's current By-law includes the following four non-statutory exemptions:

- Publicly-funded post-secondary institutions;
- Places of worship and cemeteries (if exempt under Section 3 of Assessment Act);
- Farm buildings (as defined in the By-law); and
- Farm Retirement Lots (as described in the By-law).

In general, the above list of exemptions has been included in every EDC By-law enacted within the Ottawa-Carleton area. Revenue lost by the provision of these exemptions is minimal. Staff does hear occasionally from non-profit organizations regarding the applicability of charges.

During the course of public consultation for the new successor By-law, staff did not receive a request from an individual or organization for additional exemption from EDCs.

This is an area where the Board could choose to consider the inclusion of additional non-statutory exemptions. This would not serve to impact the quantum of the in-force rates but would instead result in a non-recoverable loss of revenue.

It is staff's understanding that all four local school boards have chosen to limit the inclusion of additional non-statutory exemptions given the revenue impact and the challenge it would present determining which organizations to exempt.

9. Percentage of Residential Development to Fund EDCs

The regulations governing the collection of EDCs state that a Board shall choose the percentage of growth-related net education land cost that is to be funded by charges on residential development, and the percentage (if any) that is to be funded by charges on non-residential development. Should a non-residential charge be implemented, the legislation indicates that it cannot exceed 40%.

The non-residential development sector has paid a share of EDCs within the Ottawa-Carleton area for every By-law implemented to date. Although various arguments and positions have been put forward over the years related to what share a particular development sector should cover, there is no defining standard in place.

The Board's current EDC By-law is based upon an 80% residential/20% non-residential split in funding the recovery of growth-related net education land costs. This was partly a result of a desire to more equitably distribute the rate of increase across both sectors.

Given the temporary freeze on EDCs there is no ability for the Board to consider the application of a different residential/non-residential percentage split, as this would serve to increase the rate for one of the two sectors.

10. **Summary**

The District needs to approve a successor new EDC By-law in order to ensure that it will continue to collect EDCs in the future.

Staff is recommending the adoption of EDC By-law No. 01-2019 (attached as Appendix A). The proposed By-law was prepared by the Board's solicitor in consultation with Planning staff, our three coterminous school boards, and our consultant, the Quadrant Advisory Group.

Should the new By-law be adopted by the Board, it would come into force on 1 April 2019. The By-law would implement the existing in-force charges of \$723.00 per new residential unit and \$0.52 per new square foot of non-residential gross floor area. These are in line with the October 2018 provincial amendments to Ontario Regulation 20/98.

The key policy decisions which shaped the charges contained in the existing EDC By-law remain unchanged for the recommended new By-law.

To date there has been no information received regarding the provincial review of EDCs and its legislative framework. Staff will report back to trustees once more information is available.

With respect to the future imposition of the rates calculated under the completed December 2018 background study, a number of possibilities exist. The Board could proceed with adopting a successor By-law (to that which will be adopted) by following the legislatively prescribed process. This might be required if the changes made by the province alter one or more elements of the calculation that

would affect the determination of the number of growth-related school sites. This would involve a separate consultation and up to six months to complete.

Alternatively, a less formal process for having the Board adopt and implement a revised charge as calculated within the completed background study may be possible if there are no substantive changes to the legislative framework. Given the circumstances that the OCDSB and a number of other school boards will find themselves in, the Ministry may be able to facilitate a less cumbersome amendment process via legislative revision.

A final option may be to have the newly adopted current rates in place for the entire five-year period (from 2019 to 2024). The accrued shortfall and increased borrowing requirements would be addressed within the next By-law renewal process. A path such as this would include communication with development stakeholders given that the increase in charges for the next By-law period would likely be higher than typical.

Unfortunately, until more details are known respecting the provincial review and the changes which may result, staff is unable to provide more information regarding next steps in the process.

In accordance with Section 257.63 (3) of the *Education Act*, the Board may choose to hold additional public meetings to consider any changes to the proposed new EDC By-law arising from discussions at the 15 January 2019 and 26 February 2019 public meetings. Given the opportunities for input provided for within the consultative process, and the fact that there are no material changes proposed to the recommended By-law, staff is recommending that the Board confirm that another public meeting is not required.

Ministry approval of the Board's estimates used to determine growth-related net education land costs is expected prior to the 26 February 2019 Board meeting.

RESOURCE IMPLICATIONS:

11. The collection of EDCs is the main source of funding for costs incurred by the District to acquire land and/or prepare sites as a result of the need to build new pupil places due to growth.

Without the implementation of EDCs the above costs would have to be funded through an alternate revenue source.

It should be noted that the EDC study process, which takes place every five years when a new By-law is being considered, is designed to incorporate the balance in a District's EDC account. Should a District have a deficit in the account, that amount is included in the calculation of need moving forward and recovered over time by the collection of future EDCs.

While the temporary capped EDC rates are in place, staff will monitor the funding shortfall which will result from collecting at a rate lower than that which has been calculated in the background study. At this time there has been no directive from the Province as to how this funding shortfall will be addressed.

COMMUNICATION/CONSULTATION ISSUES:

12. In order to consider the adoption and implementation of a new EDC By-law the Board is required to follow a legislatively governed consultative process. This process includes the holding of a minimum of two public meetings and provision of formal notice for each.

In early July 2018, the District's website was updated to include a consultation page related to the EDC By-law renewal process. Included on the webpage was a section providing members of the public with information regarding how to submit their questions and/or comments.

13. Development Community Stakeholder Consultation
A meeting was held with the development community stakeholders on 26 October 2018 to discuss the work plan to be followed and some of the key issues related to the renewal of the Board's EDC By-law. Provincial amendments to the legislation governing EDCs and the government's plan for a future review of the framework were discussed.

On 7 January 2019, correspondence was sent to the development community stakeholders in order to provide them with an update on the process and information regarding public meeting dates. The message was sent to representatives from the Greater Ottawa Home Builders' Association (GOHBA), the Building Owners and Managers' Association (BOMA), the Ottawa Construction Association (OCA), and the Ottawa Chamber of Commerce.

An explanation of the provincial review and the capping of EDC rates were provided. A chart showing the current charges and the calculated background study charges for the four Ottawa area school boards was shared.

An offer to meet for further discussion regarding EDC rates and the renewal process was extended. To date no meeting requests from the development community stakeholders have been received.

14. Legislatively Required Public Meetings
In accordance with the requirements of the legislation, the Board held two Special Committee of the Whole public meetings on the evening of 15 January 2019.

The first meeting was convened in order to review the policies contained within the Board's existing EDC By-law No. 02-2014. A background document pertaining to this review was included in an EDC background study which was completed and made available to members of the public two weeks in advance of the scheduled meeting. Notice of the meeting was published in the *Ottawa Citizen* on 13 December 2018. There were no requests for delegations at the 15 January 2019 policy review meeting.

After completion of the first public meeting, and in accordance with Section 257.63 of the *Education Act*, the Board held a second Special Committee of the

Whole public meeting that same evening. This meeting was held to inform and allow the public to make representation regarding the proposed new EDC By-law. Notice of the public meeting was published in the *Ottawa Citizen* on 13 December 2018. District staff at the meeting outlined the steps involved in preparing the new calculated charge.

The public meeting notice published in the *Ottawa Citizen* on 13 December 2018 included a variety of mediums for comment and correspondence regarding the Board's new EDC proposal. In addition, both the notice and the accompanying EDC Background Study were posted on the OCDSB website. There were no requests for delegations at the 15 January 2019 successor By-law public meeting.

STRATEGIC LINKS:

15. The provision of safe and caring learning environments is a priority of the District. Student accommodation and the effective management of enrolment pressures are critical aspects of our ability to provide safe learning spaces and to mitigate unnecessary risk.

Acquisition of new school sites in a timely manner is a key requirement in order to implement the Board's future decisions on school construction to address enrolment growth.

RECOMMENDATIONS:

- A. THAT the Board confirm that an additional public meeting under 257.63 (3) of the *Education Act* is not required prior to the adoption of the Ottawa-Carleton District School Board's Education Development Charges By-law No. 01-2019;
- B. THAT the Board approve the Ottawa-Carleton District School Board's Education Development Charges Background Study, dated 18 December 2018, for the purpose of adopting the Board's Education Development Charges By-law No. 01-2019;
- C. THAT the Board set the following rates of \$723.00 per new residential dwelling unit and \$0.52 per new square foot of non-residential gross floor area; and
- D. THAT the Board approve the Ottawa-Carleton District School Board Education Development Charges By-law No. 01-2019 (attached as Appendix A to Report 19-021) effective, 1 April 2019, subject to Ministry approval, and authorize staff to undertake steps regarding its implementation and administration.

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Camille Williams-Taylor
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Appendix A OCDSB Education Development Charges By-law No. 01-2019