



Development Charges Subgroup: Report to the PMFSDR Infrastructure Table

PMFSDR Infrastructure Table

August 9, 2007

Executive Summary: Structure of Final Report

This report is organized as follows:

- Executive summary
- General context: development charges in Ontario
- Observations and options on four priority areas
- Observations and options on other areas
- Preliminary financial analysis

Executive Summary: Development Charges in Ontario

- Development charges are fees levied on new development to help pay for the infrastructure required to service new growth. They help to raise money for capital projects that would otherwise be financed through property taxes or other means.
- Development charges were introduced to replace the more informal “lot levy” system (under the Planning Act) that was used in Ontario from 1959-1989.
- The current *Development charges Act, 1997* (DCA) was preceded by the Development charges Act (1989). The 1997 Act introduced a number of restrictions and additional requirements that were not found in the previous Act.
- There are currently three “types” of development charges in Ontario:
 - Development Charges for municipal services (DCA)
 - Development Charges for GO Transit (DCA)
 - Education development charges – used to finance the purchase of land for new schools (Division E of the Education Act)
- This report deals primarily with the first type, but also includes comments on GO Transit development charges

Executive Summary: Financial Statistics

Development Charges as a Source of Capital Financing (2005 statistics)

- The use of development charges is permissive, not mandatory. Currently, about 170 municipalities, representing about 90 percent of the province's population, impose development charges.
- Development charges represent about 15 percent of total capital funding for these municipalities, but about 32 percent in the GTA regions (upper and lower tier).
- Total collections in 2005 were about \$1 billion, with about \$2.5 billion in reserves.

Development Charges and the Housing Market

- Some concerns have been expressed about the role of development charges in new housing prices, and whether DCs are a significant factor. MMAH research on selected municipalities suggests that development charges represent approximately 3.5% - 7.0% of the price of an average new home and have remained relatively stable as a proportion of the price of new housing over 1996-2004.
- If infrastructure is required to service new development, the cost will be borne by the home purchaser – either as an increase in the house price (passed on by the developer and incorporated into mortgage payments), or through property taxes. However, unlike property tax, development charges help ensure that the capital costs of providing services to new growth are paid by those who will benefit from it.

Executive Summary: Subgroup Mandate

General Principle: Development charges should ensure that *growth pays for growth*

- The Subgroup agreed to conduct a review of key issues with the *Development Charges Act, 1997*, and provide options that would support this general principle.

Four Priority Areas:

- The Subgroup identified four provisions in the DCA that appeared to be most inconsistent with the growth pays for growth principle:
 - Ineligible Services
 - The Mandatory “10% Discount” that must be applied to some services
 - The Service Level Calculation (10-year average service level)
 - Treatment of Grants, Subsidies and other Contributions under the Act

Other Issue Areas:

- The Subgroup also reviewed and provided options for other areas of the DCA:
 - Transit and GO Transit
 - Growth Management
 - Calculation Methodology
 - Transparency and Accountability
 - Dispute Resolution
 - Other Issues—Indexing of Development Charges, Demolition Credits, Front-End Financing

Executive Summary: Subgroup Observations

Observation Highlights – Priority Areas:

Ineligible services – Development charges seem most appropriate where there is a clear link between demand and growth, and where the municipality is responsible for providing and funding the service and determining service levels and capital plans.

10% Discount Services – The mandatory 10% reduction in eligible costs for some services creates two service “classes.” Applying the same rules to all eligible services (i.e. 100% eligibility) is more consistent with the growth pays for growth principle.

Service Level Calculation – A restriction based on a 10-year historical average service level can be problematic, and can limit the ability of a municipality to meet strategic priorities or make needed investments in growth-related infrastructure.

Treatment of Grants, Subsidies and Other Contributions –The requirement to net-out the growth related portion of capital grants results in a reduction in the available capital funding that would otherwise have come from development charges (a *de facto* subsidization of new development).

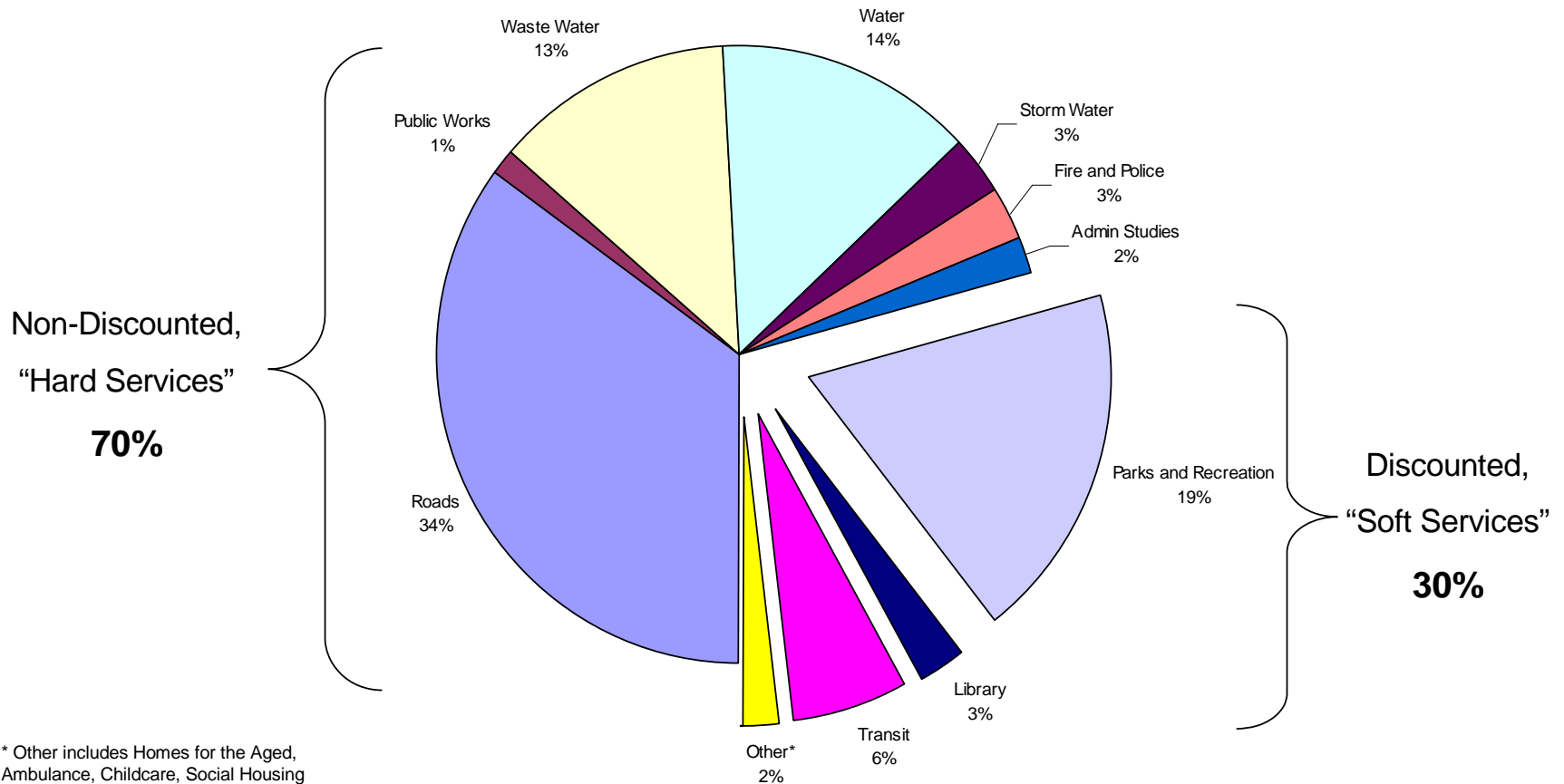
Observation Highlights – Other Areas:

The Subgroup discussed other areas of the DCA, and proposed options that may help better support the growth pays for growth principle and/or address technical issues in these areas.

Context: Development Charges in Ontario

- Approximately 170 municipalities in Ontario collect development charges for one or more eligible service
- In 2005, collections totalled over \$1 billion, with \$2.5 billion in reserves

Development Charge Collections by Service – Ontario Average

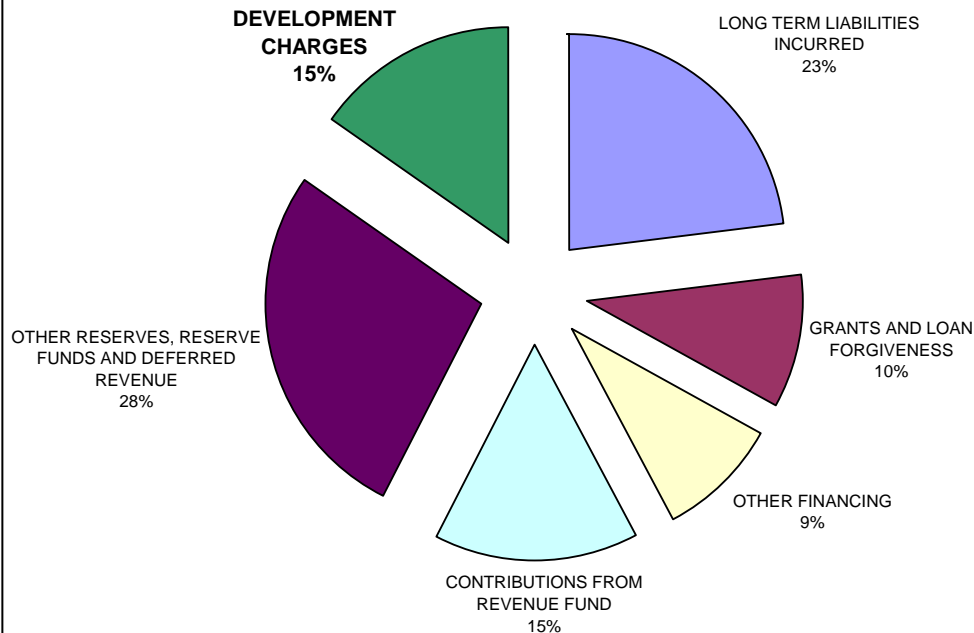


Context: Development Charges as Financing Source

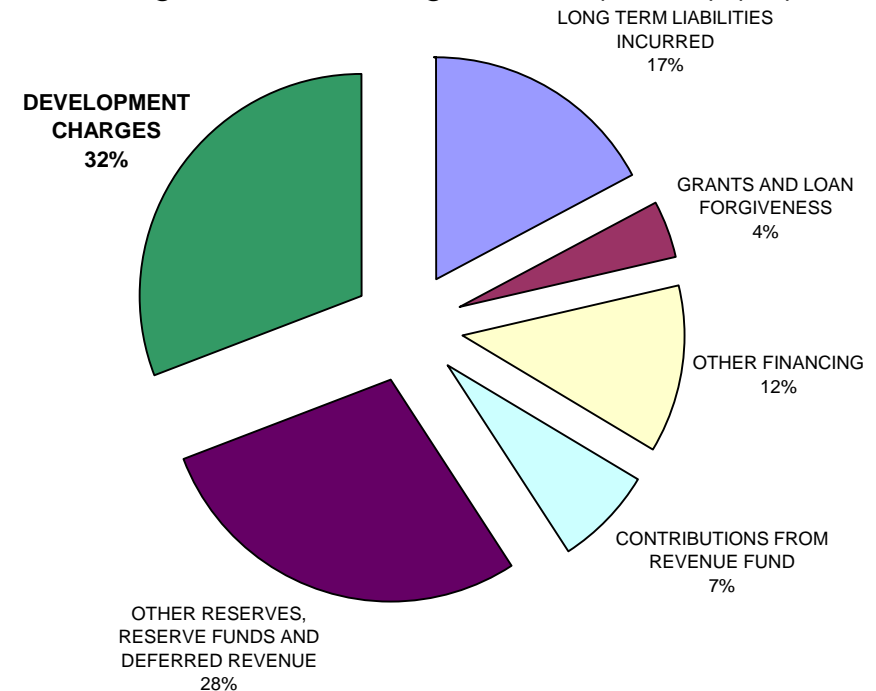
- Development charges are a significant source of capital financing
- A very significant source of capital financing in higher-growth municipalities

Municipal Capital Expenditures by Source (2005)

Development Charge Collecting Municipalities (170)



GTA Regions – Excluding Toronto (UT/LT) (28)

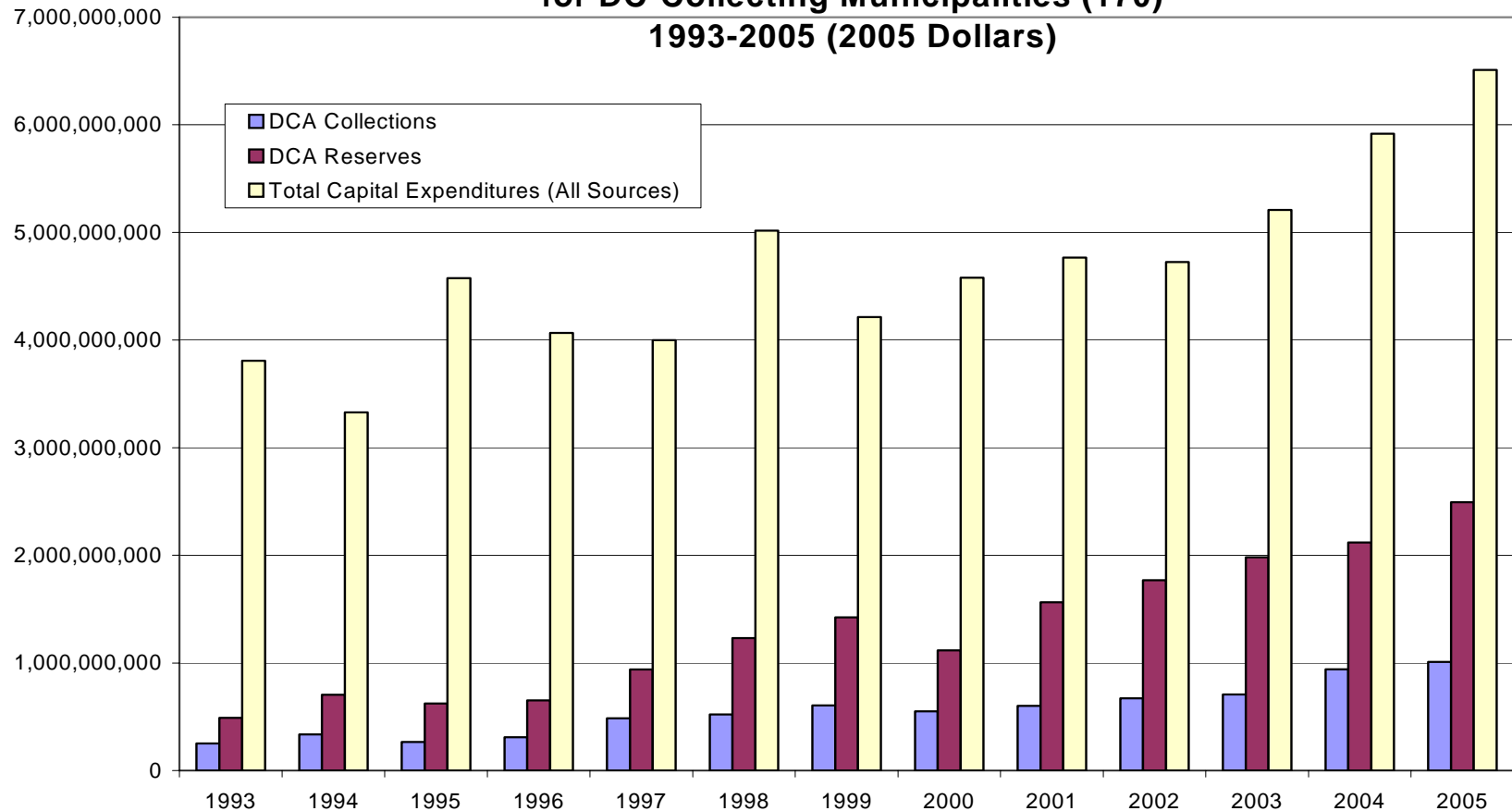


Note: “Long-term Liabilities Incurred” includes debt that will be repaid through future development charges. “Other Financing” includes grants and fees received from other municipalities.

Context: Historical Trends in Development Charge Collections

- DC collections have increased with rising municipal capital spending and increased as a percentage of total capital expenditure financing from all sources in municipalities with development charge by-laws

**Development Charge Revenues and Reserves vs. Total Capital Spending
for DC-Collecting Municipalities (170)**



* Total capital expenditures represent total municipal capital expenditures less capital grants from other municipalities

Context: Development Charges in Ontario

Number of Municipalities Imposing Development Charges by Development Type (All Ontario 2005)

Residential	Commercial	Retail	Industrial	Institutional	Other
170	128	129	104	122	128

Residential Development Charges - 2005

Single Detached Unit Development Charge (2005)

	High		Low		Average
GTA	Milton T	25,108	Toronto C	6,723	19,343
Central (excl. GTA)	New Tecumseth T	18,558	Adjala-Tosorontio Tp	2,641	10,004
Eastern	Ottawa C	10,566	Bancroft T	800	4,307
South-Western	Cambridge C	13,993	Grey Highlands M	1,000	6,921
North - Eastern	North Bay C	3,450	Greater Sudbury C	2,450	3,112
North - Western	No Development Charges				

Ontario

\$ 9,133

Non-Residential Development Charges - 2005

Commercial Development Charge per Square Metre(2005)

	High		Low		Average
GTA	Milton T	97.13	Newmarket T	9.71	65.62
Central (excl. GTA)	New Tecumseth T	119.43	Huntsville T	9.02	39.16
Eastern	Ottawa C	91.49	Douro-Dummer Tp	0.65	13.77
South-Western	London C	78.10	Puslinch Tp	2.32	25.05
North - Eastern	North Bay C	6.36		N/A	6.36
North - Western	No Development Charges				

Ontario

\$ 33

GO Transit Development Charges (2005)

Durham R	555
Halton R	862
Peel R	355
York R	287
Toronto C	N/A
Hamilton C	N/A

Notes:

Totals based on MMAH survey of development charges in Ontario, February, 2005.

No Development charges in North-Western Ontario.

Context: Development Charges in Ontario

- Development Charges have remained relatively stable as a percentage of housing prices in major urban centres.

Summary of Development Charges* as a Percentage of Housing Price for a Single Detached Executive Two-Storey (in Current Dollars)			
Municipality / Year	Housing Price	Development Charge*	DC* as a Percentage of Housing Price
Ottawa (Nepean) - 1996	\$230,000	\$11,477	5.0%
Ottawa (Nepean) - 1999	\$240,000	\$11,821	4.9%
Ottawa (Nepean) - 2004	\$339,000	\$18,941	5.6%
Durham (Whitby) - 1996	\$185,000	\$12,739	6.9%
Durham (Whitby) - 1999	\$215,000	\$13,833	6.4%
Durham (Whitby) - 2004	\$275,500	\$19,626	7.1%
Waterloo (Cambridge) - 1996	\$183,000	\$6,610	3.6%
Waterloo (Cambridge) - 1999	\$198,000	\$10,179	5.1%
Waterloo (Cambridge) - 2004	\$274,500	\$13,993	5.1%
York (Vaughan) - 1996	\$280,000	\$17,276	6.2%
York (Vaughan) - 1999	\$320,000	\$16,258	5.1%
York (Vaughan) - 2004	\$416,000	\$21,543	5.2%
Peel (Mississauga) - 1996	\$220,000	\$12,078	5.5%
Peel (Mississauga) - 1999	\$270,000	\$13,640	5.1%
Peel (Mississauga) - 2004	\$415,645	\$18,722	4.5%
Halton (Oakville) - 1996	\$248,000	\$14,889	6.0%
Halton (Oakville) - 1999	\$275,000	\$12,868	4.7%
Halton (Oakville) - 2004	\$350,000	\$20,269	5.8%

Development Charges Subgroup Mandate

The Subgroup agreed to conduct a review of key issues with the *Development Charges Act, 1997*, and provide options that would support the general principle of “**Growth pays for growth**”

The work of the group focused on ten key issue areas :

1. Eligible Services / Ineligible Services
2. The 10% Discount
3. Service Level Calculation
4. Treatment of Grants, Subsidies and Other Contributions
5. Transit and GO Transit
6. Growth Management
7. Calculation Methodology
8. Transparency and Accountability
9. Dispute Resolution
10. Other Issues – Indexing of Development Charges, Credits for Demolition, Front-End Financing Agreements

Four Priority Areas

As a result of these discussions, the Subgroup has identified four priority areas for potential change. The current provisions of the DCA in these areas appear most inconsistent with the principle of “Growth pays for Growth.”

- Ineligible Services
- The Mandatory “10% Discount” that must be applied to some services
- Service Level Calculation
- Treatment of Grants, Subsidies and other Contributions under the Act

Ineligible Services

Issue:

Some services cannot currently be financed through development charges:

Municipal Services:

- Acquisition for land for parks
- Waste management services
- Municipal administrative buildings
- Cultural, entertainment or tourism facilities (e.g. museums, theatres, art galleries, convention centres)

Hospitals:

- The DCA also prohibits the use of development charges to help fund the community share of hospital capital projects

Previous Development Charges Act (1989)

- The 1989 Act did not make distinctions between municipal services and contained no formal “ineligible services” category.
- Development charges could be used to help finance the growth-related capital costs involved in expanding any service being provided by the municipality at the time of the background study.
- The 1989 Act did not prohibit the use of development charges to help fund municipal contributions to hospitals

Ineligible Services

Subgroup Observations

- Municipal development charges seem to be most appropriate for capital services where:
 - There is a clear municipal responsibility for providing and funding the service
 - The municipality is responsible for setting service levels and undertaking capital planning
 - There is a clear link between growth and demand for the service
- Municipal development charges appear particularly problematic for services where:
 - There is a wider or different catchment area for the service than the municipal boundary and someone other than the municipality is responsible for setting service levels and capital plans
- There is inconsistency in how the above concepts are applied with respect to some currently eligible/ineligible services:
 - There are some services which appear to be clearly linked to growth which are presently ineligible (e.g. solid waste management, administrative buildings, land for parks)
 - There are some services which are eligible for which municipalities do not have a direct responsibility for capital planning, service level establishment or service provision (e.g. municipal contribution to new 400 series highway interchanges)
 - GO Transit is a service for which municipalities do not have a direct responsibility for capital planning that also has a wider catchment area that does not adhere to municipal boundaries.

Ineligible Services

Subgroup Observations (continued)

- The previously-mentioned concepts and observations may also be of value in considering other service areas that are presently advocated for eligibility:
 - **Hospital services** are not provided by municipalities (although the “community share” of hospital funding is often positioned locally as a “municipal contribution”). Additionally, the catchment area of a hospital (LHIN) does not coincide with municipal boundaries. The community in which the hospital is located may be pressured to provide funding, even though the hospital may benefit a much wider area.
 - **Acquisition of land for parks** is currently ineligible. In some cases, parkland is provided by the developer, but often not to the extent required. Subgroup members noted that there is a strong case for including the growth-related costs of parkland acquisition (including woodlots and environmentally sensitive areas, etc.), provided that land or cash-in-lieu payments contributed through the Planning Act are netted out of the calculation.
 - **Cultural, Entertainment and tourism facilities** (presently ineligible) may be less linked to growth than other services.

Ineligible Services

Options	Comments and Considerations
Reconsider some services currently excluded	<ul style="list-style-type: none"> • Some services (e.g. waste management) could be reconsidered based on the previously discussed principles
Remove ineligible services category	<ul style="list-style-type: none"> • Would allow for full range of municipally-provided services to be included in DC rates (broader municipal discretion) • Would place onus on the municipality to establish that demand for service is linked to growth
Move ineligible services list from the legislation to the regulation	<ul style="list-style-type: none"> • Allows for easier flexibility in approach over time, as it is easier to make changes in regulation • Can adapt to future changes in service provision/funding responsibility
Additional Considerations	
<ul style="list-style-type: none"> • Further consideration should be given to how to effectively finance growth-related capital costs associated with services that have wider catchment areas and/or where the municipality is not responsible for setting service levels/capital planning like hospitals, GO Transit, 400 series highways, etc. (e.g. potential for intra-regional or Provincial development charges, or alternative funding framework). 	

10% Discount Services

Issue:

- When determining development charges, the municipality must apply a mandatory 10% reduction to the eligible growth related capital costs before calculating the charge. This requirement is commonly referred to as the “10% Discount”
- The mandatory reduction does not apply to “hard services” such as roads, water and wastewater, storm water management, police and fire services, but must be applied to all other eligible services.
- The additional 10% increment must be made up from other sources, such as the general tax levy.
- The “10% Discount” services include, but are not limited to:
 - Transit
 - Homes for the Aged
 - Recreation Facilities
 - Libraries
 - Parkland Development
 - Ambulance Service
 - Social Housing
 - Childcare
 - Emergency Shelters
 - Airports
 - Vehicles and equipment

Previous Development Charges Act (1989)

- The previous Act did not contain a “10% discount” category. All municipal services in the development charge by-law were eligible for recovery at 100% of the growth-related capital costs.

10% Discount Services

Subgroup Observations

- The 10% discount was introduced into the Act in part to serve as a “control” on excessive expenditure. There may be other more effective controls on municipal capital expenditures, making this type of control unnecessary. These would include:
 - The requirement to attribute costs between growth and existing development
 - The need to consider operating costs of new infrastructure (required under the DCA)
 - The need to consider long-term maintenance and replacement costs of growth-related assets (asset management may affect thinking about long-term affordability)
- Members noted the cost the 10% discount imposes on the property tax base, as the difference must be funded out of general revenues:
 - Ottawa \$ 26M (2004-2007)
 - Toronto \$ 50M (2004-2008)
 - Vaughan \$ 19M (2004-2008)
 - Halton Region \$ 15M (2004-2009)
 - Brampton \$ 42M (2004-2009)

10% Discount Services

Subgroup Observations (continued)

The use of 100% eligible and 10% Discount service categories creates some unintended consequences:

- Transit and roads cannot be combined into a “transportation” service because they are in different categories (The DCA prohibits funds collected for 100% eligible and 10% discount services from being combined). This acts as a barrier to integrated financial planning for transportation, which can lead to the overbuilding of roads at the expense of transit, as a greater portion of the capital costs of roads can be recovered through DCs.
- There may be some similar dynamic with fire (100%) and ambulance (90%), which often share infrastructure (e.g. buildings, equipment), but must be DC-financed according to different rules.
- The 10% discount creates “second class services”. Where possible, the same rules should apply to all services.

10% Discount Services

Options	Comments and Considerations
Reconsider some services as 10% discount	<ul style="list-style-type: none">•Recognizes the importance some services (e.g. transit)•Could help remove growth-related capital costs from property tax
Remove 10% discount service category from the DCA	<ul style="list-style-type: none">•Standardizes treatment of services under the DCA•Could help remove growth-related capital costs from property tax•More consistent with principle of “growth pays for growth”
Additional Considerations	
<ul style="list-style-type: none">• There may be a need to consider the effect of the 10% discount within the broader context (i.e. the cumulative impact of the current provisions and restrictions in the DCA such as ineligible services, the 10-year average service level restriction, treatment of grants, etc.)	

Service Level Calculation

Issue:

- For each service, the municipality is required to determine the average level of service provided over the last ten years.
- Development charges cannot be used to pay for the portion of any new infrastructure that would lead to a service level higher than this 10-year average level of service.
- The DCA regulation requires both the **quantity** and **quality** of a service be taken into account when determining the level of service and the average level of service.

Previous Development Charges Act (1989)

- The 10-year average service level rule replaced what was known as the “peak service level” rule under the *Development Charges Act, 1989*.
- Under the peak service level rule, municipalities could levy a development charge that would fund services at a level up to the *highest* service level standard attained in the previous 10 years.

Toronto-York Subway Extension

- The recent amendments to the Toronto-York subway extension replaces the 10-year average service level cap with a forward looking 10-year planned service level based on the expected build-out of the project.

Service Level Calculation

Subgroup Observations

- The use of a service level standard within the Act should not limit the ability of a municipality to meet strategic priorities (e.g. transit, solid waste management)
- The imposition of an historical service level standard may be at odds with smart growth principles/quality of life in intensified communities; may also seem at odds with political direction towards “complete communities.”
- Members cited a number of examples where historical service level standards prove problematic:
 - Ambulance/EMS and social housing services were transferred to the municipal level, so municipalities are limited in terms of DCs to the service levels provided by the province.
 - “First” of any service is a problem. For example, when a community reaches a certain size, a new type of service (e.g. homes for the aged) may be required. Currently, no portion of that could be funded through DCs.
 - Amalgamations of municipalities with different services/service level standards may impede the use of development charges.
 - Service levels can vary over time given timing of construction, particularly in fast-growing areas.
 - Downturns in the economic cycle can impact service levels if development charge collections drop over a sustained period.

Service Level Calculation

Subgroup Observations (continued)

- The historical service level standard creates additional problems for services where the provincial or federal government requires services to be at a higher than average standard (the DCA allows other standards to supersede the average service level, but the higher standard must be mandated through legislation)
- Members noted that there was little established practice for estimating the attribution of benefit to existing development under the 1989 Act (which used a peak service level), as that Act did not explicitly require municipalities to make that attribution.
- Potential changes to the service level standard should be considered in the context of the framework for benefit to existing development. A strong framework for calculating the benefit to existing development may be a more effective way of ensuring “growth pays for growth” rather than the use of historic service level standards, provided that it does not unduly limit local flexibility or the continued use of locally-negotiated approaches.

Forward-Looking Service Level Standard

- The difficulties in applying a forward-looking service level standard to the Toronto-York Subway Expansion project provided insight to potential problems which were instructive.
- Members discussed the use of service level plans/business cases to justify forward-looking service standards. Presently, the DCA requires a plan for operating costs. Perhaps this could be expanded to require a full capital, fiscal and operating costs plan to serve as the basis/justification for establishing service level standards.

Service Level Calculation

Options	Comments and Considerations
Revert to 10-year peak service level	<ul style="list-style-type: none"> • Could increase eligible capital costs for many services • Does not fully address issues with high-growth municipalities and municipalities looking to introduce new services
Replace average service level with forward-looking service level standard	<ul style="list-style-type: none"> • Would benefit system expansion in high-growth municipalities • Forward-looking standard would assist in introducing new services • Forward-looking service level should be tied to official/capital plan or other planning document to ensure development charges reflect a realistic estimation of infrastructure needs
For some services, allow access to provincially-defined service level standards (to supersede 10-year average)	<ul style="list-style-type: none"> • Could be targeted to certain priority areas or areas where there is a provincial interest (e.g. transit, waste management, energy conservation)
Remove service level standard requirement	<ul style="list-style-type: none"> • No clear mechanism for demonstrating link between capital expansion and growth demand or for ensuring that growth is not paying for service improvements that would benefit the wider community.
Additional Considerations	
<ul style="list-style-type: none"> • If changes to the current service level framework are contemplated, there may be a related need to revise/strengthen the framework for apportioning benefit between existing development and growth • Any contemplated forward-looking service level should be transparent, adaptable to all services, and closely tied to capital spending • Any new/revised framework should consider how to account for potential improvements in the <i>quality</i> of service 	

Treatment of Grants, Subsidies and Other Contributions

Issue:

- The DCA requires the growth-benefiting portion of all grants, subsidies and other contributions to be deducted from the eligible capital costs, unless the person making the grant specifies that a greater portion of the grant should benefit existing development (up to 100%).
- Whether and how the grant is designated can have a substantial impact on allowable development charge collections.

Sample Allocation of Grants Under the Development Charges Act, 1997

$$\boxed{\begin{array}{c} \text{Total} \\ \text{Project} \\ \text{Cost} \end{array}} = \boxed{\begin{array}{c} \text{Benefit to} \\ \text{Existing} \\ \text{Development} \end{array}} + \boxed{\begin{array}{c} \text{Benefit to} \\ \text{Growth} \end{array}}$$

Breakdown Project Cost:

100 **70.0%** **30.0%**

Apply Reduction for Grants: (Sample Transit Grant worth 2/3 of project cost)

Undesignated Grant	Total Cost	100	70	30	
Apply Grant in 70/30	<i>less</i>	66.7	47	20	
existing/growth ratio from		<u>33.3</u>	<u>23</u>	10	= Total Eligible DC Costs
background study					

Designated Grant	Total Cost	100	70	30	
Apply 100% of Grant to Benefit to	<i>less</i>	66.7	67	0	
Existing Residents (per grantor		<u>33.3</u>	<u>3</u>	30	= Total Eligible DC Costs
designation)					

Treatment of Grants, Subsidies and Other Contributions

Subgroup Observations

- The requirement to net-out the growth related portion of capital grants results in a reduction in the available capital funding that would otherwise have come from development charges
- Some subgroup members perceived this requirement as creating a *de facto* subsidization of new development
- Primarily an issue with Gas Tax (provincial/federal) and other specific infrastructure grants (e.g. Renew Ontario, Move Ontario, CSIF)

Treatment of Grants, Subsidies and Other Contributions

Options	Comments and Considerations
<p>Status Quo – Continue to require deductions unless grantor specifies how the grant should be applied</p>	<ul style="list-style-type: none"> • Consistent with well established and accepted practice • Provides granting bodies with flexibility to choose how the benefit from these grants should be allocated between existing residents and new growth
<p>Reverse onus – Allow the grantor to specify the portion of the grant that should benefit growth, otherwise municipality free to decide</p>	<ul style="list-style-type: none"> • Could increase available funds to support infrastructure projects • Would require new, easy to understand methodology • Potential for concerns from the development community about growth paying for non-growth related costs
<p>Do not require municipalities to account for grants –</p>	<ul style="list-style-type: none"> • Allowing grants, subsidies and other contributions to be treated as general revenues would provide municipalities with the flexibility to determine how best to apply additional resources to infrastructure projects that will benefit both growth and existing residents • Strong potential for concerns from the development community about growth paying for non-growth related costs
<p>Additional Considerations</p>	
<ul style="list-style-type: none"> • While the current grants provision is ostensibly consistent with the “growth pays for growth” principle, it may be useful to consider the treatment of grants in the larger context of the current funding framework and the pressures on municipal infrastructure financing. 	

Other Issue Areas Considered

In addition to the four priority areas previously discussed, subgroup members reviewed and discussed options for addressing the following issues:

- Development Charges for Transit and GO Transit
- Development Charges and Growth Management
- Calculation Methodology
- Accountability and Transparency
- Dispute Resolution
- Indexing of Development Charges
- Use of Demolition Credits
- Front-End Financing Agreements

Development Charges for Transit

Subgroup Observations

- High priority placed by members on the idea of permitting integrated financial planning (and implementation) for transit and transportation (roads).
- Extensive use of tax dollars to fund transit infrastructure can put municipalities “further behind” on funding operating expenses, which are often very high for transit.
- Subgroup members acknowledged that “transportation” includes goods and services, as well as people.
- High priority placed on the issue of a better approach to service level standards for transit. Members noted that in many built up areas, road service levels are going to deteriorate regardless of the amount of investment (e.g. number of possible lanes reaching full build-out).
- Subgroup members noted that well-developed transit systems are a crucial element of good growth management strategies.
- Addressing priority issues would have a significant impact on capacity to collect development charges for transit.

Development Charges for Transit

Options	Comments and Considerations
Remove 10% discount	<ul style="list-style-type: none"> • Would increase DC-eligible costs, reduce tax effort • Would allow for integrated planning for transportation services
Replace service level standard with 10-year peak or forward-looking service level standard	<ul style="list-style-type: none"> • Would benefit system expansion in high-growth municipalities • Forward-looking standard would benefit municipalities looking to introduce transit services • Forward-looking service level should be tied to transit master plan or other transit planning document to ensure development charges reflect a realistic estimation of infrastructure needs
Ensure that planning horizon is consistent with the long-term benefit associated with transit projects	<ul style="list-style-type: none"> • Only the capital costs associated with growth over the next 10 years can currently be included in the estimates • Making change could allow DCs to recover more of the capital costs of over-sizing transit infrastructure from future development/users
Additional Considerations	
<ul style="list-style-type: none"> • If the planning horizon restriction is removed, there may be need to standardize approach to calculating future benefit and determining future collections, etc. 	

Development Charges for GO Transit

Subgroup Observations

- The Infrastructure Table of the Provincial-Municipal Fiscal and Service Delivery Review is examining broad issues relating to the appropriate provincial and municipal roles in the service delivery and funding framework for public transit in Ontario, including the role, if any, for municipal contributions to GO Transit.
- The Subgroup has considered the issue of GO Transit DCs based on the current arrangement.
- GO Transit provides service across multiple municipal jurisdictions, and municipalities do not have the ability to determine service levels or capital expenditures. Some members questioned whether municipal DCs are the appropriate financing mechanism (as opposed to a provincial DC and/or area DC).
- Also a concern that if municipalities are to continue to set and charge GO Transit DCs, they should not be required to defend provincial costs and service-level calculations at the OMB.
- Most of the comments on transit generally, including the options presented, would apply equally to GO Transit if a municipal share is to be maintained.

Development Charges and Growth Management

Subgroup Observations – Discretionary Discounts for Development Charges

- There are currently a variety of experiences and practices regarding the use of discretionary development charge discounts to promote growth in particular areas.
- Subgroup members raised the following concerns about the use of discounted development charges as an incentive mechanism:
 - It is important to consider the relevance of discounts in the context of other cost/price drivers (e.g. does discounting encourage development, or increase developer profit). Discounts are a reasonable option if you conclude the discount will serve to influence the choice of where to develop.
 - Discounts mean municipality is forgoing needed revenue to build growth infrastructure – deferring costs to the property tax base instead. This is particularly difficult when other aspects of the Act are perceived as distorting ability to enable “growth to pay for growth”
 - One possible option is enabling the discount given to desirable growth (e.g. urban areas, transit-oriented development) to be applied to other forms of development (e.g. Greenfield development). This may be controversial and could be seen as taking the regime somewhat away from the notion of growth paying for growth. If the public policy objective is to encourage “good growth,” a clear framework would be required to allow municipalities to do so without creating additional exposure to OMB challenges.

Development Charges and Growth Management

Subgroup Observations - Area-Rated and Marginal Cost Charges

- Some municipalities (e.g. Ottawa) have considerable positive experience with establishing differentiated development charges for different parts of the city, with developer concurrence. There are, however, some general observations and concerns about area-rated or marginal cost development charges:
 - There can be difficulties in allocating some types of costs (e.g. arterial roads, water and wastewater, arenas) among different parts of a municipality, making distinctions between infill and greenfield development difficult.
 - In some cases, the per-unit costs of servicing built-up urban areas may be more costly.
 - There may be difficulties in defining and defending boundaries for area-rated charges.
 - Average cost pricing is the “tried and true” method. Municipalities have a great deal of experience dealing with challenges raised at the OMB. The technical support required to defend marginal costs charges or complex area-rates could be difficult to justify.
 - Conceptually, if the province wanted to support more marginal cost DCs, there should be more of a ‘framework’ in place to provide greater certainty about what is and is not permissible to lessen the chance of challenge at the board. However, it is not clear how one could construct such a framework in a robust fashion that would appropriately respond to various different local circumstances.

Development Charges and Growth Management

Subgroup Observations – Other Issues

- Subgroup members noted that development charges can play an important role in supporting “smart growth” in communities. However, their impact is often overshadowed by other features of the planning process or community reaction, which can act as significant obstacles to encouraging smart growth types of development. (i.e. a discounted development charge may not provide enough inducement for developers to undertake the complicated process of redeveloping brownfield sites, etc.)
- Members noted the importance of the earlier discussions on transit and transportation as relevant to supporting intensification.
- In high-growth or urban areas, some currently excluded services like cultural facilities (e.g. museums, theatres convention centres) can act as an “anchor” to encourage revitalization or redevelopment of downtown areas, and stimulate growth in outlying areas.
- Development charges are an effective way of recovering costs associated with servicing new growth, but may not be a practical mechanism for financing the up-front infrastructure investment that is often required to attract new development to areas where growth would not otherwise occur.

Development Charges and Growth Management

Options	Comments and Considerations
<p>Revise legislation to encourage/facilitate growth management (infill development, higher density uses, brownfields, etc.)</p>	<ul style="list-style-type: none"> ▪ Requires a permissive regime that is adaptable to local circumstances ▪ Should not create any undue administrative complexity ▪ Should lead to charges that are transparent and easily understood by those who will pay the charge
<p>Promote development charge practices that are supportive of local/provincial growth management objectives through development of a “Best Practices Guide”</p>	<ul style="list-style-type: none"> ▪ No legislative changes necessary, all actions would be voluntary ▪ Opportunity to highlight best practices and innovative approaches to growth management (as well as other DC issues) ▪ Could be linked to other growth management tools and other provincial initiatives
<p>Amend the DCA so that it facilitates the development of services that support strong communities and promote growth management.</p>	<ul style="list-style-type: none"> ▪ Services that support strong communities include: Transit, parks and recreation facilities, libraries, etc. ▪ This option is linked to the broader discussions on service eligibility and transit by the Subgroup
<p>Additional Considerations</p>	
<ul style="list-style-type: none"> • Any changes to the current approach should be permissive, allowing/facilitating smart growth initiatives that fit local circumstances. 	

Development Charges Calculation Methodology

Subgroup Observations

- Members discussed a variety of practices with respect to various aspects of calculation methodology, with a general sense that the fact there is a great deal of variety is not of concern to municipalities.
- Some members discussed the use of broader planning documents, approved before the DC process begins, as a way of grounding their estimates for growth and increased need for service. The use of existing planning documents and reference sources such as “Places to Grow” targets and census data makes this process less controversial.
- Generally, the allocation of growth to population vs. employment is somewhat harder to defend (e.g. allocating need for roads). Employment growth often lags behind population growth, which can mean that more of the employment-related costs are carried “up front”.
- Discussion of several topics has highlighted the apportionment of benefit to existing development vs. future users as a key issue. This discussion is heavily tied to service standards. In some cases (e.g. roads) service standards for all users are likely to decline.
- Discussion of eligible capital costs revealed some concern over the exclusion of computer equipment. Members noted that advancing technology makes it difficult to distinguish between computers and electronic equipment required to run capital facilities, etc. Members noted that these assets have become too important to justify continued exclusion.

Development Charges Calculation Methodology

Options	Comments and Considerations
Revise current approach through regulation or amendment	<p>General Considerations</p> <ul style="list-style-type: none"> • A standardize approach to calculation methodology could simplify background studies and reduce OMB challenges • Changes could increase transparency so that the methodology can be better understood by those who will pay the charge • Difficulties in developing standardized methodologies that could be applied to a range of services in a broad variety of municipal environments/circumstances
Contemplate alternative calculation methodology	
Maintain status quo (unresolved issues with methodology and definitions to be settled through appeals mechanism)	
<p>Additional Considerations</p>	
<ul style="list-style-type: none"> • Any standardized approach to calculation methodology should not limit local flexibility • Any changes should increase transparency so that the methodology can be better understood by municipal staff and by those who will pay the charge 	

Accountability, Transparency and Dispute Resolution

Subgroup Observations

Accountability and Transparency

- Subgroup members were generally satisfied with current approach to accountability (although issues are often raised by the development community)
- Current approach to community consultation and information sharing varies across municipalities. Subgroup members noted that this indicated that the current approach allows municipalities the flexibility to decide how to best meet local needs.
- Subgroup members noted that reserve fund activity is open and transparent, but that reserve fund usage (i.e. project spending and substitutions) should be able to bear the scrutiny of an open review or audit.
- Members also noted that current process requires municipal accountability, but places no similar requirement on the development industry.

Accountability, Transparency and Dispute Resolution

Subgroup Observations

Dispute Resolution

- Few development charge by-law appeals deal with substantive policy issues—most arise because developers are unhappy with the quantum of the charge.
- The alternative dispute resolution options offered by the OMB could be more fully developed. Some subgroup members noted that an alternative mediation process may also be useful.
- The OMB is prevented by the DCA from issuing a ruling that would benefit a municipality (i.e. increase a charge). The Subgroup noted that allowing the charge to be increased (if supported by evidence) could help to remove the perceived bias toward the development community (No developer accountability/risk at OMB).
- Subgroup members noted that the lack of standardization in OMB rulings creates additional uncertainty for municipalities, as different appeals on similar issues may yield different results. Guidelines to place boundaries on OMB rulings would be helpful in this regard.

Indexing of Development Charges

Subgroup Observations

- The DCA allows development charges to be indexed according to the Statistics Canada Quarterly *Construction Price Statistics*.
- Subgroup members suggested that this index does not adequately reflect the rising prices of municipal infrastructure.
- There was interest in the idea of creating a local “municipal infrastructure price index” to better reflect the increase in local infrastructure costs (Ottawa has created such an index, which has been included in Statistics Canada index that is authorized for use under the DCA)
- The Subgroup noted that rising costs associated with construction is the most significant driver of development charge increases. It was suggested that allowing municipalities to annually review the cost of constructing the projects identified in the background study—without opening up the entire by-law to appeal—could be beneficial.

Indexing of Development Charges

Subgroup Observations (continued)

- More frequent updates would lead to smaller, more predictable increases rather than the current “jump” which accompanies by-law updates every five years.
- While phasing-in charges is permitted, the DCA prohibits the foregone revenue from being recovered through future development charges. This acts as a significant disincentive to provide developers with phase-in incentives when a new by-law comes into effect.

Demolition Credits

Subgroup Observations

- The DCA does not contain a provision governing the establishment and use of credits for redeveloping properties, despite widespread municipal adoption of demolition credit schemes.
- Some municipalities have indicated that the lack of legislative clarity has led to problems at the OMB.
- Increased clarity with regard municipal authority to use and to place limits on demolition credit schemes should be considered.

Front-End Financing Agreements

Subgroup Observations

- The DCA permits municipalities to enter into front-end financing agreements with developers, whereby the developer agrees to build or finance infrastructure and recover some of the costs from future users through development charge revenues.
- The current framework is not widely used, although some municipalities do have complex agreements with multiple developers. Some use of private legal contracts outside of the DCA was also noted.
- Subgroup members indicated an interest in reviewing the current front-end financing provisions in an effort to make the process more flexible and easy to use.

Additional Considerations

Transition to a new framework

- Subgroup members noted that a significant number of municipalities are currently in the process of creating new background studies/by-laws. Approximately 90% of current development charge by-laws will expire by 2009.
- Concern that potential future changes to the DCA could leave certain services “stranded” (i.e. without a source of future payment)
- Need for some kind of transition principle – future changes to the Act should not create stranded unfunded services (e.g. service is committed to, some funds collected, but capacity to continue to collect is eliminated).

Financial Analysis – Priority Areas

Ineligible Services

The financial implications of removing some or all of the services from the ineligible services category would be highly contingent upon the services chosen, the level of municipal uptake, and the portion of capital expenditures that could be attributed to growth for each service.

Total Municipal Capital Expenditures for Currently Excluded Services (2005)

- Parks - \$203.5M (only the acquisition of land for parks is excluded)
- Waste Collection and Disposal – \$176.1M
- Hospitals – \$49.3M
- General Government – \$399.1M
- Cultural Services - \$74.6M

Note: Capital spending figures represent actual reported provincial totals for capital spending by service category in 2005 (source: Municipal Financial Information Return). Actual capital spending for each service may vary significantly across municipalities and from year to year.

Financial Analysis – Priority Areas

10% Discount Services

- Estimating the effect of a full removal of the 10% discount is relatively straightforward, as municipalities report development charge collections for discounted services on the Municipal Financial Information Return.
- Total collections for discounted services 2005 (approx.) – \$300M
- Estimated value of 10% Discount (2005) – \$33.3M
- Estimate value of 10% Discount for GO Transit (2005) – \$1.3M – \$2.5M

Notes:

- The full impact of removing the 10% discount would be highly contingent upon the degree to which the removal of the deduction would encourage municipalities that are currently not charging for some/all discounted services to introduce charges for those services (approximately 65% of DC-collecting municipalities only collected for non-discounted services in 2005)
- GO Transit estimates: Low – based on actual 2005 reported GO Transit revenues for Durham, Halton, Peel and York. High – based \$24.5M calculation for ten-year period 2005-2015, draft 2005 background study update (not published)

Financial Analysis – Priority Areas

Service Level Calculations

- Estimating the effect of a new framework for calculating service level would be contingent upon the standard chosen (e.g. 10-year peak historical service level, forward-looking service level) and the projected level of capital spending for the impacted services.
- An exact calculation for moving to a 10-year peak service level would require data from municipal background studies, while estimating a move to a forward looking service level would require a detailed analysis of local capital plans, based on a well-defined new standard.

Financial Analysis – Priority Areas

Grants, Subsidies and Other Contributions

- Estimating the effect of a new framework for the treatment of grants would be contingent upon the framework chosen, the nature of the capital grants received, and the growth-related share of projects that are currently impacted by capital grants.

Major Grant Programs Impacting Development Charge Collections

- Provincial Gas Tax Funding – (FY 2005-2006) - \$229.9M (to 83 municipalities)
- Provincial Gas Tax Funding – (FY 2006-2007) - \$308.9M (to 86 municipalities)
- Federal Gas Tax Grant (Ont) – (FY 2005/06) – \$224M

Note: Provincial gas tax funding is intended to increase transit ridership, and may be used for capital or operating expenses. There are approximately 30 municipalities collecting development charges for transit. Actual Federal gas tax capital expenditures reported by all municipalities in the 2005 FIR - \$128.4M.