

The Regional Municipality of York

Committee of the Whole
January 12, 2023

Report of the Chief Administrative Officer

Yonge North Subway Extension Update

1. Recommendations

1. Council confirm a direction to establish, through further agreement(s) with the Province of Ontario:
 - a) a clearly defined scope for the Yonge North Subway Extension project and
 - b) an associated cap to the capital contribution for the municipal share, currently estimated at \$1.12 billion.

2. Summary

This report provides an update on the Yonge North Subway Extension (YNSE) and seeks Council support for ongoing negotiations with the Ministry of Transportation Ontario (MTO) to confirm (i) the project scope and (ii) appropriate limits for York Region's financial contribution.

Key Points:

- Yonge North Subway Extension is one of the “priority” transit projects announced by the Province of Ontario in 2019
- In 2020, the Province of Ontario-Regional Municipality of York Transit Partnership (YNSE) Preliminary Agreement and a Transit-Oriented Communities (TOC) Memorandum of Understanding were executed with the Province
- The *Metrolinx Act, 2006* authorizes Metrolinx to have sole responsibility for planning, design and construction of YNSE, and intends to own the resulting assets
- TOCs are led by the Province through the Ministry of Infrastructure, which has tasked its agency, Infrastructure Ontario, with coordination of TOCs around new subway stations. An update on this work will be the subject of a separate Council report
- With the Province responsible for delivery and ownership of YNSE, Regional and YRRTC staff have been focused on the overall project scope and limits on the Region's financial contribution while advancing further agreements required to bring certainty to all participating parties

- Based on preliminary capital cost estimates for YNSE, the Region’s contribution has been assumed to be in the order of \$1.12 billion
- Metrolinx continues to advance the design and implementation of YNSE
- Capping the Region’s financial contribution is recommended for two reasons:
 1. When York Region and Toronto/TTC delivered the Spadina subway in 2017, project delivery was the responsibility of the municipalities and both the federal and provincial governments capped their contributions – a reasoned approach given that control for project execution resided with the municipalities. In this case, the province is controlling project delivery and should therefore be accountable for cost control.
 2. The remaining priority transit projects included in the Subway Transit Plan for the Greater Toronto Area are in Toronto. The Province of Ontario-City of Toronto Transit Partnership Preliminary Agreement executed for those projects does not require a 26.67% capital contribution from Toronto but rather, requires the City of Toronto make an equivalent contribution to support their own state-of-good-repair enhancements, modernization/upgrades and other expansion to the Toronto Transit Commission system. A similar condition was not available to York Region but could, potentially, be part of a negotiated upset limit.
- Even with a capped financial contribution in place, the Region will need to manage non-recoverable costs for project management, related infrastructure and ongoing operational costs that will arise through the YNSE project

3. Background

In 2019, Provincial authority to implement subways, including Yonge North Subway Extension, was provided through *Get Ontario Moving Act, 2019*

The 2019 Ontario Budget highlighted the government’s vision to build transit faster with a commitment to deliver priority transit projects, as outlined in the Subway Transit Plan for the Greater Toronto Area (GTA), within accelerated timelines. The priority transit projects include:

- Ontario Line
- Yonge North Subway Extension
- Scarborough Subway Extension
- Eglinton Crosstown West Extension

The *Getting Ontario Moving Act* received Royal Assent in June 2019. It enables the transfer of responsibility for new rapid transit projects from the City of Toronto to the Province, through amendments to the *Metrolinx Act*. Pursuant to the new provisions in the *Metrolinx Act*, a

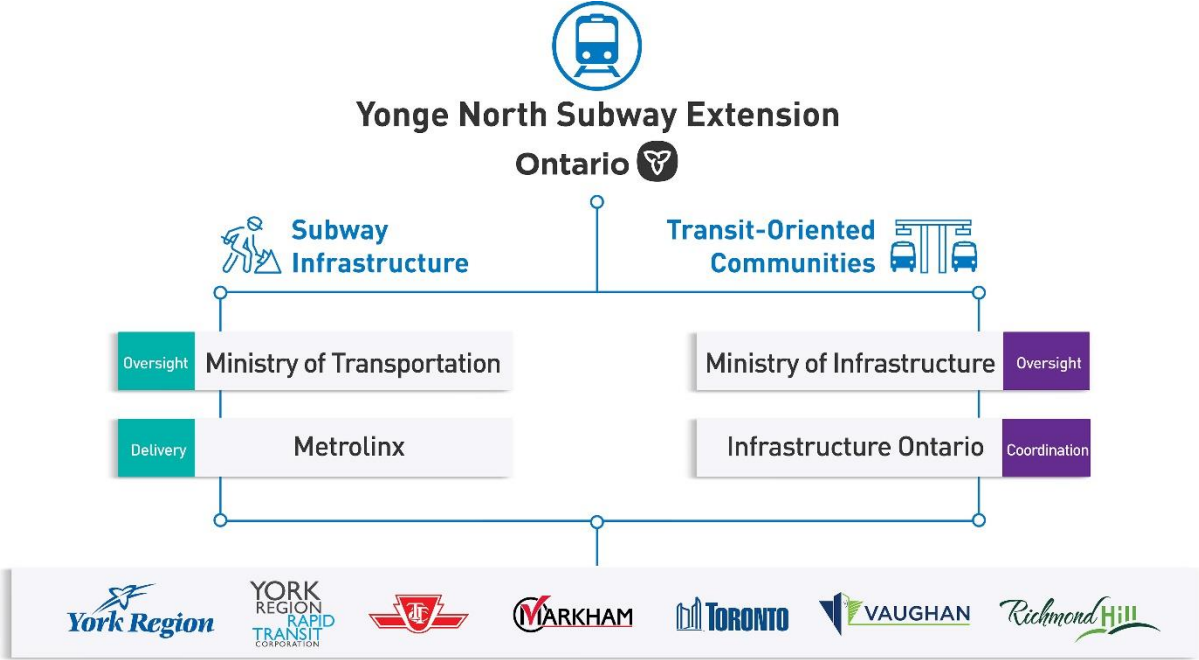
regulation that makes the Ontario Line, the Scarborough Subway Extension, and the Yonge North Subway Extension the sole responsibility of the Province came into effect in July 2019.

In December 2020, the Ontario Rebuilding and Recovery Act, 2020 (ORRA), received Royal Assent, amending the Building Transit Faster Act, 2020 (BTFA) to enable the extension of BTFA measures, as applicable, to other provincial transit projects by providing regulation-making authority to name other projects. Since enacting the ORRA, a Lieutenant-Governor-in-Council regulation prescribing the Hamilton Light Rail Transit (LRT) as the fifth priority transit project under the BTFA came into effect in September 2021.

The Province, through the Ministry of Transportation, is maintaining ownership of the projects and has directed Metrolinx to deliver Yonge North Subway Extension

The *Metrolinx Act, 2006* authorizes Metrolinx to have sole responsibility for planning, design and construction of priority transit projects, including the YNSE, and intends to own the resulting assets. The governance structure for the YSNE project is shown in Figure 1.

Figure 1
Summary of Governance Structure for
the Yonge North Subway Extension Project



On July 8, 2020, the *Building Transit Faster Act, 2020* (BTFA) was passed by the Ontario Legislature. The BTFA introduced a suite of new legislative measures that streamline project delivery and support the accelerated completion of the government’s priority transit projects.

The measures introduced by the BTFA include:

- Requirements for owners of adjacent land and infrastructure to obtain a corridor development permit for construction and development activities that may interfere with transit construction;
- The ability to enter lands for due diligence work (e.g., soil testing), removal of obstructions and encroachments (e.g., trees), addressing imminent danger to construction, and for monitoring compliance with corridor development permits;
- A streamlined land assembly process;
- A framework for enhanced coordination of utility relocations to support better management of project schedule and costs; and,
- An approach to municipal service and right-of-way access.

May 2020, a Preliminary Agreement was executed for Yonge North Subway Extension between the Region and the Province

Council authorized the execution of a Preliminary Agreement (Agreement) with the Province in [May 2020](#). The Agreement outlines the terms/conditions and roles/responsibilities for planning, funding, delivering, operating and maintaining YNSE, based on the proposed route and station locations shown on the map in Attachment 1. It was intended to form the foundation for additional agreements yet to be negotiated between the Region and Metrolinx, in collaboration with the Province/MTO.

The Agreement confirms the Province has sole responsibility for planning, design and construction of YNSE and intends to own the resulting assets. It further documents the Province will:

- Continue to engage and collaborate with the Region (and local municipalities, as appropriate) from the planning/design stage through to construction and operations stages of YNSE
- Coordinate with the Region (and local municipalities, as appropriate) to mitigate impacts of construction on local communities or other major infrastructure projects
- Lead engagement with the public, communities and other stakeholders while working closely with the Region (and local municipalities, as appropriate)

Transit-Oriented Communities agreements are also being negotiated with the Province

A Transit-Oriented Communities Memorandum of Understanding (MoU) was also executed with the Preliminary Agreement in May 2020. The MoU sets out that the Province will act as the single commercial interface on Provincial TOC projects, working with the municipalities for input and review of development concepts.. The province subsequently enacted the *Transit-Oriented Communities Act,2020* enabling the Province to support implementation of TOCs around transit stations along the YNSE and other priority subway projects. The Province has entered into

commercial agreements with building partners to move forward TOCs around the future Bridge and High Tech stations. As a result of these TOCs the Province has been able to expand the scope of the YNSE project to include a new station at Royal Orchard at no cost to the municipalities.

In a [June 2021 report](#), Council received an update on the status of the YNSE project and [Major Transit Station Areas](#) proposed to be established, in the vicinity of proposed subway stations, through the Regional official Plan.

In September 2021, the Province announced two TOC locations within the Richmond Hill/Langstaff Gateway Regional Centre at the proposed Bridge and High-Tech subway stations. In [January 2022](#), in a Special Regional Council meeting, staff provided updates on the TOC proposals. Subsequently, the Province initiated its engagement process with the Region and local municipalities on how they propose to implement TOC master plans at various YNSE station development sites.

In [April 2022](#), Council received a further update referencing a [communication](#) from the province and authorized staff to continue to negotiate the TOC Programmatic Agreement-In-Principle (later renamed to the “TOC Operating Agreement”). This work continues to proceed in parallel with the subway infrastructure work and will be reported to Council separately.

4. Analysis

While the Province/Metrolinx is responsible for delivering the Yonge North Subway Extension, there are ongoing capital and operating cost implications for the Region that need to be clearly understood

Discussions with the MTO have been ongoing since the Preliminary Agreement was signed in 2020. The overall project scope has advanced through Metrolinx’s confirmation of the alignment in 2021 and the Province’s confirmation of the five stations now part of the project. Details regarding station access, bus terminals, train storage, service levels and operations/maintenance obligations remain to be confirmed.

With a clearly defined project scope, the Region and the MTO are best positioned to agree on the Region’s financial contribution and merits of a capped contribution. The Region will have limited influence on project management decisions, ownership and overall cost - which are the sole responsibility of the Province/MTO pursuant to the Preliminary Agreement. Based on preliminary capital cost estimates of \$5.6 billion for YNSE, the Region’s contribution has been assumed to be in the order of \$1.12 billion.

Further rationale for capping the Region’s capital cost exposure can be drawn from the Toronto-York Spadina Subway Extension completed in December 2017. That project had the City of Toronto and York Region responsible for overseeing planning and delivery through the TTC.

Consequently, both the provincial and federal governments capped their contributions to the capital costs.

For the other four priority transit projects and the portion of YNSE located in the City of Toronto, the City's financial contribution is through redirected funding. Under the Ontario-Toronto Transit Partnership Preliminary Agreement, the City would redirect the capital contributions to support modernization/upgrades or state of good repair improvements to the existing transit system. To date, a similar opportunity for York Region to invest alternatively in transit asset maintenance has not been considered.

Metrolinx continues to advance design of Yonge North Subway Extension

Metrolinx was not involved in the government-to-government discussions related to the Preliminary Agreement. As a Provincial agency reporting to the Minister of Transportation, Metrolinx has direction from the Province/MTO to deliver the YNSE along with other priority transit projects identified in the Subway Transit Plan for the GTA, as well as additional priority projects prescribed under the BTFA (*Hamilton LRT*). Metrolinx is also delivering GO Rail expansions; including projects that may also be subject to the *Transit Oriented Communities Act*. Staff from the Region and directly affected local municipalities, including Vaughan, Richmond Hill and Markham, continue to work with Metrolinx to advance tunnel and station designs. An advanced contract was awarded for the Finch Station Early Works in September 2022, and it is expected an advance tunnelling contract will be awarded in 2023.

Protracted delays in Province/MTO discussions on scope, capping and other fundamental principles could impact Metrolinx implementation timelines

To date, discussions between the Region and Province on the overall project scope and capping of the Region's financial contribution have not been substantially advanced. Drafts of "downstream" agreements have yet to be prepared and exchanged. As the project proceeds to construction, a lack of clarity and agreement on the project scope and financial contribution for the Region could make it difficult to agree on decisions affected by ownership and maintenance responsibilities. It is fair to say that progress on the YNSE project is lagging slightly behind the other subway priorities – several of which are already advancing through multiple construction contracts.

Regional role for implementation of the Yonge North Subway Extension requires confirmation, as not all work is cost-recoverable from the Province/Metrolinx

Not all work associated with YNSE is eligible for cost recovery as evidenced by unrecoverable costs submitted over the past two years by YRRTC. Any non-recoverable costs will be in addition to the capped financial contribution agreed to with the Province/MTO.

Work currently recoverable is only that which is supporting implementation of subway infrastructure. This work is recoverable through Metrolinx to support their role for subway

infrastructure delivery, and includes review of tunnel and station designs, traffic management plans and implications to existing Regional infrastructure, such as pipes and roads.

Any government-to-government work with the Province/MTO on agreements after the Preliminary Agreement or coordination work between the Region and the affected local municipalities are not recoverable. While relatively small in comparison to the overall project cost, these non-recoverable costs are estimated to be about \$2 million to \$3 million per year at current rates of expenditure and would need to be included in the Region's budget.

Recovery of costs for work associated with Transit-Oriented Communities is still being negotiated with the Province/Infrastructure Ontario.

5. Financial

Capped financial contribution is critical to the Region and is consistent with approach taken by the Province for Toronto-York Spadina Subway Extension

The YNSE will be a major transit infrastructure project in the Region over the next 10 years. The Region's planned \$1.12 billion contribution to this project represents almost 20% of the cost of all infrastructure the Region needs to build to support the Growth Plan during this period. Any increase in funding contribution needed for YNSE would have major impact on affordability of other planned infrastructure or priorities Council may want to consider over the next 10 years. Achieving a capped financial contribution is of critical importance to the Region.

The preliminary capital cost estimate of \$5.6 billion for YNSE was set in 2017, with the Region's contribution at \$1.12 billion. The Region's pro rata share of the municipal capital contribution reflects that 75% of YNSE will be within the Region, and the remaining 25% within the City of Toronto. Funding for the project will be 75% from development charges and 25% from tax levy sources. Due to timing between when project costs are incurred and development charges are collected, a significant component of the Regional share will need to be paid for using debt. The tax levy component is expected to be funded through the annual 1% incremental tax contribution from the Rapid Transit Infrastructure Levy Council authorized starting in 2022 and expected to continue in 2023 and 2024.

Without a financial cap in place, there is risk the Region's cost could increase significantly due to inflation and project scope changes beyond the Region's control. Even with a financial cap, the Region is still exposed to discretionary scope changes for infrastructure beyond what would be included in the agreed overall project scope, any "owner's costs" to administer agreements with the Province and Metrolinx, and any future operating costs the Region would be responsible for incurring.

6. Local Impact

The YNSE project is a critical component of the regional and local transportation network and underpins the participating municipalities' ability to support future growth as identified in the Provincial Growth Plan and Bill 23 – *More Homes Built Faster Act*.

Subway infrastructure is necessary for full build-out of the Richmond Hill/Langstaff Gateway Provincial Urban Growth Centre and to facilitate redevelopment of the Yonge Street Corridor from Finch Avenue to Richmond Hill, including the various Transit-Oriented Communities/Major Transit Station Areas identified by the Province.

Successful implementation of YNSE will require coordination among staff from Markham, Richmond Hill, Vaughan and York Region, aligning input on the design of subway station and tunnel infrastructure with municipal infrastructure, to create liveable communities that seamlessly connect with existing communities.

7. Conclusion

The Yonge North Subway Extension is a critical transportation project required to support the growth and development of the Region. This report updates Council on the project with a focus on negotiations stemming from a Preliminary Agreement executed in 2020.

The Region remains exposed to ongoing and future costs for related infrastructure, operations, etc. Confirming the overall project scope and agreeing on a capped capital contribution will provide certainty to all parties and advance governance and additional agreements required for the successful delivery of YNSE.

The MTO has tasked Metrolinx with delivery of YNSE and their work continues to advance the design of subway tunnels and stations. Regional and staff from the directly affected local municipalities of Markham, Richmond Hill and Vaughan continue to provide input to support the implementation of YNSE.

For more information on this report, please contact Brian Titherington, Director, Transportation and Infrastructure Planning 1-77-464-9675 ext. 75901 or Ed Hankins, Director, Treasury Office 1-877-464-9675 ext. 71644. Accessible formats or communication supports are available upon request.

Approved for Submission:



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Attachment 1 – YNSE Route and Station Locations