

Board Meeting - Feb 16, 2023

Speaking notes, Phil Verster, President & CEO, Metrolinx

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

We only remove trees when it is absolutely necessary and this is also the case for those being removed at Osgoode Hall and Moss Park for construction of the Ontario Line. We are listening to the communities and their concerns and appreciate all the of views that are being shared.

We are also working with partners to protect as many mature trees as possible and to develop plans for beautifying and restoring the space after construction. For every tree removed, we plant three or more trees.

Partnerships with our communities and stakeholders will continue as our construction and planning activities advance.

Non-Responsive

Non-Responsive



CONFIDENTIAL
MEMORANDUM

To: Metrolinx Board of Directors
From: Phil Verster, President and Chief Executive Officer
Date: February 16, 2023
RE: CEO Report

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

20. Tree removals at Osgoode Hall and Moss Park

We have five significant tree removal locations to execute in the period to the end of March. Two of these, at Moss Park and Osgoode Hall, have been particular newsworthy.

s.15.1 Relations with Aboriginal communities, s.19 Solicitor-client privilege

we worked during last year with the respective Nations that have rights at these locations to achieve a status to proceed with tree removals. During the last quarter of 2022 we had many interactions with one particular party, the Haudenosaunee Development Institute (HDI), on these two locations. In doing so, we were fulfilling the

instruction from the Ministry of Environment, Conservation and Parks (MECP), namely to consult with Haudenosaunee Confederacy Chiefs Council (HCCC) whom have delegated such consultation to HDI.

s.12 Cabinet records, s.13 Advice to government, s.15.1 Relations with Aboriginal communities

We started the tree removals at Moss Park on Saturday 4 February and removed 36 trees over a period of four days. We are working with our contractor to assess whether we can reduce the removal of the other 25 affected trees in the next few weeks.

We planned to start the archeological work at Osgoode on December 12 and required the removal of 5 trees to achieve that. We deferred this work at the time as we were still attempting to secure a reasonable position with HDI and we were expecting the City's independent report (by Parsons) on the Osgoode station entrance to be published. The independent report was subsequently completed at the end of January and concurred that the Metrolinx choice for the station entrance, as selected from 10 different options, was the best possible choice. We hosted a public meeting for the City to present its report on February 1 and proceeded to start removing trees at Osgoode on Saturday, February 4.

The Law Society of Ontario (LSO) applied for an injunction to stop the tree removal on Friday February 3 and was heard by Judge Chalmers on Saturday, February 4. The Judge awarded an interim injunction so as to allow the LSO to make arguments as to the "indivisible heritage" of the Osgoode Hall property and to what extent the removal of the trees constituted irreparable harm. On Monday, February 6, HDI notified us that they will be applying for an injunction too, on grounds that consultation obligations have not been met.

On Friday, February 10, both of these injunctions were being heard by the court and were dismissed. Close to midnight on Friday February 10, HDI gave notice of an appeal against

the decision. On Saturday, February 11, HDI's legal counsel incorrectly filed their appeal with the Ontario Court of Appeal, maybe deliberately in an attempt to get the Appeal Court judges involved, which then resulted in a rather unusual course of events on Saturday. With respect to the work itself, we had been making good progress but were instructed to stand down by Justice MacPherson at approximately 10:30am. This instruction was subsequently reiterated and extended by Justice Gillese, at a hearing on Saturday afternoon.

In respect of the case itself, despite valiant arguments from our counsel, Justice Gillese was not inclined to hear the matter on Saturday, February 11, and has adjourned the matter until Tuesday, February 14. But for some very limited work to ensure the safety of the site, all tree removal work is stopped until such time as the matter is decided.

s.19 Solicitor-client privilege

Finally, the order to cease work until further notice was not in fact issued as an interim injunction but was instead characterized as a "term" of adjourning the motion to Tuesday. We have many reservations as to how these unusual and unprecedented decisions have been allowed by the Court and we are considering the appropriate next steps that will allow the jurisdiction principle to be grounds for appeal to the Supreme Court. We did not anticipate this legal scenario.

Non-Responsive

Non-Responsive



Ontario Line

Osgoode Station Update

DECEMBER 2022

CONFIDENTIAL & COMMERCIALY SENSITIVE

Executive Summary

- Osgoode Station is a critical interchange station on the Ontario Line that will see up to 12,000 riders in the busiest hour.
- The northeast corner of Queen & University is the best transit solution and the only viable location for construction to build the station box.
- Archaeology work must be completed before the May 1 handover date to Ontario Transit Group (South Civils and Tunnel) to enable critical path schedule.
- Tree removals should be done before 2023 bird nesting season, to ensure Ontario Transit Group can mobilize after handover and avoid risk to schedule.
- Metrolinx has been engaging extensively with various groups in response to the following concerns raised by key stakeholder groups:
 - Chief Justices - Concerned that construction noise and vibration will disrupt the administration of justice at a time where courts are already facing a backlog
 - Law Society of Ontario - Concerns similar to Chief Justices', and about the removal of trees, and disruption to the Osgoode grounds and heritage fence
 - Haudenosaunee Development Institute - Claiming Indigenous rights are being impacted at Osgoode Hall and across the Ontario Line

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Archaeology and Tree Removals

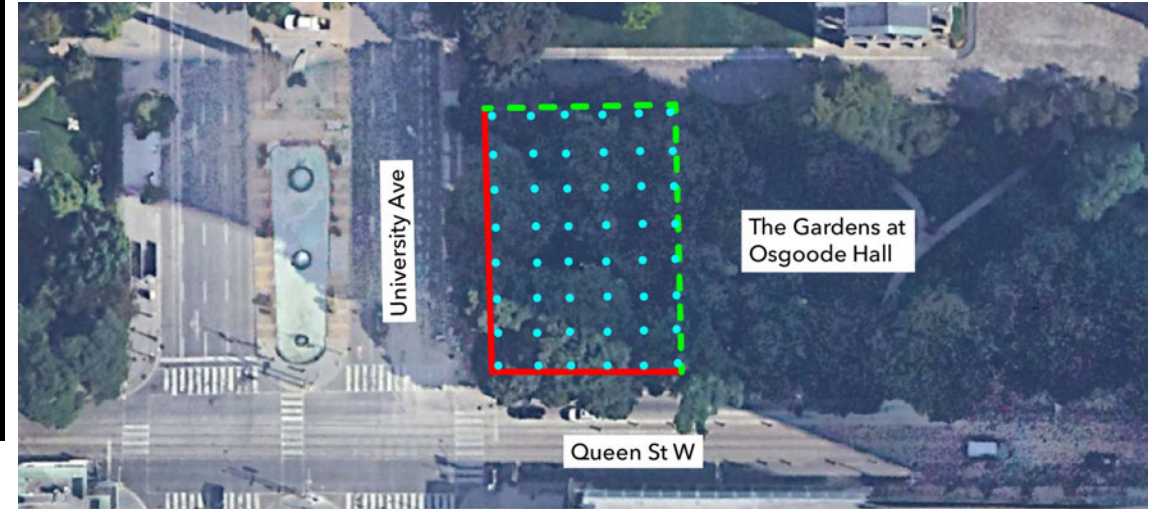
Archaeological Requirements at Osgoode Hall

Non-Responsive

- The Stage II Archaeological work was scheduled for Dec. 12th. The work consisted of hand-dug test pits around the existing trees (i.e. no tree removals are necessary at this time) and work will not exceed ambient noise. This Stage II work was anticipated to be completed by Dec. 16th and any disturbed areas will be restored to existing conditions. This has been delayed by disruption by HDI.

Non-Responsive

- As of December 13, 2022 the archaeological assessment works were put on hold until further resolution achieved with HDI.



Stage 2 Archaeological Assessment at Osgoode

- Study Area Limit (existing iron fence)
- - - Study Area Limit (temporary fencing)

- Approximate Test Pit Location
- Note:** Test pits will be at least 30cm in diameter and extend at least 5cm into subsoil, therefore totalling 20 to 40cm in depth. Exact depth cannot be known until each pit is dug. Test pits are placed every 5m but may be shifted to avoid tree roots or trunks.



Tree Removals

Background:

Metrolinx will be undertaking tree removals on Osgoode Hall to facilitate future station construction.

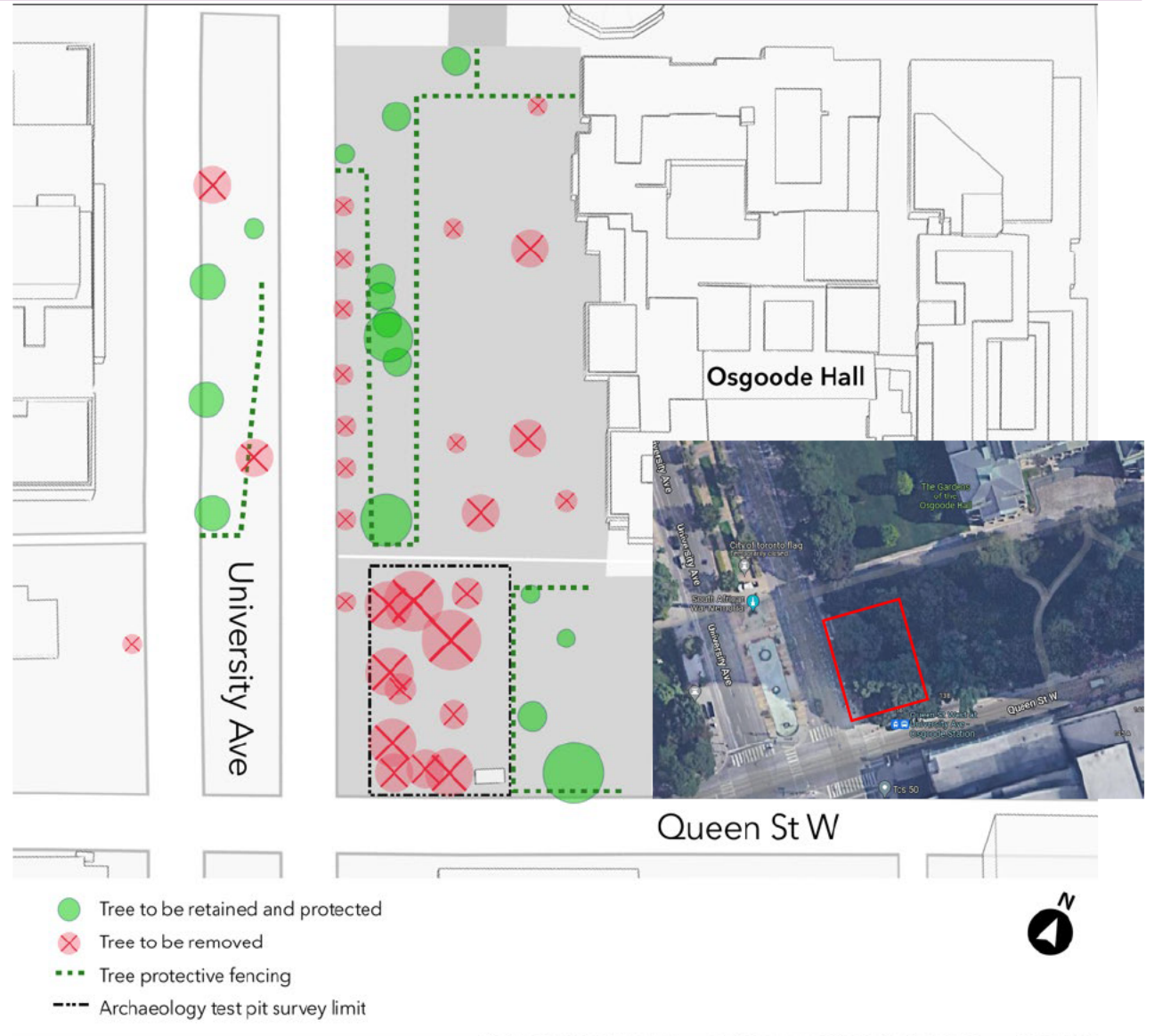
Tree Removal Information:

In order for this work to proceed, Metrolinx will be removing a total of 20 trees in Crown and Private lands, including:

- At the southwest corner of the former LSO site, there are up to 13 mature trees anticipated for tree removal for the purposes of station construction.
- 7 young trees located on land owned by Infrastructure Ontario for the purpose of construction laydown.

In addition, there will be up to 10 trees that will be removed that are located within the public road right of way

Tree removals on IO lands are required for construction laydown. The tree removals are currently planned for September 2023 and details of this work will be shared publicly once the work has been confirmed and before work begins on-site.



Mitigation Measures

Noise and Vibration

- Chief Justices and Law Society of Ontario have expressed concern about future noise and vibration impacting the administration of justice at a time where courts are already facing a backlog. They have also expressed concerns that they have not yet seen a comprehensive mitigation plan from Metrolinx.
- Metrolinx has arranged for the following mitigation strategies during future on-site works which may cause noise and vibration:

Non-Responsive

- To mitigate impacts from tree removals, Metrolinx will strive to complete any tree removal works outside of the operational hours of the Ontario Court of Appeal, the Divisional Court of the Superior Court of Justice and the offices of the Law Society of Ontario.

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Project Update

Non-Responsive

2023			
January	March 31	May 1	June-onwards
<ul style="list-style-type: none">• Subject to Stage 2 Arch. work, Stage 3-4 may be required.• This would require tree removal	<ul style="list-style-type: none">• Tree removal deadline• Bird breeding season starts		<h1>Non-Responsive</h1>



Appendix

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Engagement

Non-Responsive

Latest Discussions with LSO and Osgoode Hall

- Metrolinx met with the Law Society of Ontario on November 29, 2022, to share the update that the trees are not required to be removed to enable Stage 2 archaeological work, as described on the previous slide.
- Metrolinx has since provided a fieldwork communications plan to the Law Society, which outlines the immediate archaeological work to occur and the mechanisms in place to help ensure the safety of the public as well as staff on site. This plan includes:
 - Site Safety and Security
 - Including instructions for contractors on site and security in place for this work
 - Public Outreach Plan
 - Employee and Subcontractor Rules of Engagement
 - Including instructions to contractors on how to handle a hostile public demonstration
 - Project Site Contacts
 - Including emergency contacts
 - Key Messages
 - Information on Potential Tree Removals
 - Media Contact Information
- On December 1, 2022, Metrolinx contacted the Law Society of Ontario directly to inform staff about the upcoming works and to share an advanced copy of a public notice, prior to distribution to local stakeholder groups.

Noise and Vibration

Noise and Vibration Mitigation - Due Diligence Activities

Non-Responsive Non-Responsive

Next Steps

- The results of Stage 2 will inform the requirement of Stage 3 and 4 Archeological investigation. Should Stage 3/4 archaeological works be required:
 - Metrolinx will strive to complete any tree removal works outside of the operational hours of the Ontario Court of Appeal, the Divisional Court of the Superior Court of Justice and the offices of the Law Society of Ontario.

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Tentative Construction Schedule

Non-Responsive

The strip of trees north of the pathway along University Avenue will be protected throughout construction

Memorial to be stored off-site and re-instated after construction (same approach when existing station was constructed)

Noise walls to be provided as required to meet noise limits

Construction access via pathway from University Ave

Site Preparation and Setup

Start: Spring 2023

* Sequence, activities, and schedule are for illustrative purposes only and subject to change. ProjectCo is responsible for providing a comprehensive Construction Management Plan after Financial Close Summer 2022.

Non-Responsive

Non-Responsive

Non-Responsive

NB: Tree location, size, and species shown north of the pathway are for illustration only. The final landscape re-instatement plan is subject to further study and consultation with stakeholders and respecting the heritage landscape.

Practical Completion

Spring/Summer 2031

Replanting of trees north of the station will be possible with some specie and size limitations. This will be coordinated as part of the Landscape Management Plan.

* Sequence, activities, and schedule are for illustrative purposes only and subject to change. ProjectCo is responsible for providing a comprehensive Construction Management Plan after Financial Close Summer 2022.

Practical Completion after 10-20 years tree growth

2039-49

Replanting of trees north of the station will be possible with some specie and size limitations. This will be coordinated as part of the Landscape Management Plan.

* Sequence, activities, and schedule are for illustrative purposes only and subject to change. ProjectCo is responsible for providing a comprehensive Construction Management Plan after Financial Close Summer 2022.

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Project Update

Non-Responsive

2023			
January	March 31	May 1	June-onwards
<ul style="list-style-type: none">• Stage 3-4 Arch work may be required.• This would require tree removal (TBC)	<ul style="list-style-type: none">• Tree removal deadline• Bird breeding season starts	Non-Responsive	

Non-Responsive

Non-Responsive



To: Metrolinx Board of Directors
From: Phil Verster, President and Chief Executive Officer
Date: June 29, 2023
RE: CEO Report

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

5. Restarting the HDI relationship

s.15.1 Relations with Aboriginal communities

HDI also brought an unsuccessful injunction to stop tree removal work at Osgoode Hall, and there

s.15.1 Relations with Aboriginal communities

Our Indigenous Relations Office is working with legal counsel, MTO, and the Ministry of Indigenous Affairs (IAO) to develop a strategy to re-engage HCCC, with the intent to initially reach out to HCCC by the end of June. Work with the Province has been slower than expected, and the Province wants to own the re-engagement process and are setting the pace. We plan to initially consult with HCCC on Ontario Line and Non-Responsive, and then expand the list of projects for consultation. Our Indigenous Relations Office team is working to complete all the necessary

materials and agreements to support forthcoming consultation meetings. This represents a medium to high risk to our capital program.

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive