

Chapter 1

Section 1.15

Waterfront Toronto

Follow-Up on VFM Section 3.15, 2018 Annual Report

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1*	2		2			
Recommendation 2	3	3				
Recommendation 3	7	7				
Recommendation 4	7	7				
Recommendation 5	1		1			
Recommendation 6*	2	2				
Recommendation 7	1	1				
Recommendation 8*	3	3				
Recommendation 9	3	2	1			
Recommendation 10*	7	1	4			2
Total	36	26	8	0	0	2
%	100	72	22	0	0	6

* These four recommendations were made to the Ministry of Infrastructure. The remaining six recommendations were made to Waterfront Toronto.

Overall Conclusion

According to the information provided to us by Waterfront Toronto and the Ministry of Infrastructure, 72% of the actions we recommended in our 2018 Annual Report have been fully implemented as of September 30, 2020. The Ministry and Waterfront Toronto had made progress in implementing an additional 22% of the recommendations.

Waterfront Toronto has fully implemented recommendations such as developing detailed project budgets and timelines, tracking them against project progress, and reporting updates regularly to board members and the three levels of government. Recommendations that Waterfront Toronto was in the process of implementing include implementing a plan for making Toronto waterfront revitalization self-sufficient.

The Ministry of Infrastructure has fully implemented recommendations such as developing a

set of performance measures and targets that are linked to Waterfront Toronto's legislated objectives, and establishing a framework to guide project funding decisions. Recommendations that the Ministry was in the process of implementing include conducting a mandate review of Waterfront Toronto.

Some of the actions became no longer applicable when Sidewalk Labs announced on May 7, 2020, that it would no longer pursue the Quayside project. Waterfront Toronto publicly announced in June 2020 that it would be issuing a new request for proposals for Quayside, with a focus on affordable housing and long-term-care housing.

Ontario Digital Service, a division of the Treasury Board Secretariat, continues to work on establishing a policy framework, through legislation, for the development of a smart city in Ontario that addresses, among other things, intellectual property, data collection, ownership, security and privacy. However, it has made minimal progress on this work.

The status of actions taken on each of our recommendations is described in this report.

Background

The federal, provincial and Toronto municipal governments established Waterfront Toronto in 2002 to oversee and lead the revitalization of Toronto's waterfront. As the land was owned by a variety of public and private interests, it was widely accepted that it could only be successfully revitalized with a co-ordinated and well-planned approach.

Successful oversight requires that the overseer be given the authority to ensure the job is done right. However, Waterfront Toronto was never given this authority, so the development of waterfront lands has continued to be largely driven by historical practices, existing bylaws, and other regulations governing commercial and residential development. Since its inception in 2002, Waterfront Toronto has directly developed only 6%, or

65 acres (5%, or 55 acres by 2018) of the publicly owned developable waterfront land, and provided funding to other organizations for revitalization projects for another 14%, or 151 acres (unchanged since 2018). Waterfront Toronto currently has three projects under construction, including the Port Lands flood protection project, which total an additional 13%, or 138 acres, of the publicly owned developable waterfront land.

Other waterfront development entities in other cities had been given greater authority than Waterfront Toronto regarding building height restrictions, creation of large public spaces and public access to the water's edge, and the right to expropriate land in cases where the intended use was not consistent with overall revitalization plans. From day one, Waterfront Toronto was aware of the constraints that it operated under. It informed the three levels of government of the constraints on several occasions, but few changes were made.

Waterfront Toronto's purchase of Quayside land between 2007 and 2009 created an opportunity for it to develop this land. It was proactive in obtaining an innovation and funding partner for Quayside. However, its project with Sidewalk Labs raised concerns in areas such as consumer protection, data collection, security, privacy, governance, anti-trust and ownership of intellectual property. These areas had long-term and wide-ranging impacts that needed to be addressed from a provincial policy perspective in order to protect the public interest before any formal long-term commitment was reached with Sidewalk Labs regarding the development in Quayside and, potentially, areas within the broader waterfront area, including the Port Lands.

Subsequent to our 2018 audit, on May 7, 2020, Sidewalk Labs announced that it would no longer pursue the development project in Quayside.

By May 2018, the federal, provincial and city governments had committed to providing \$1.25 billion to Waterfront Toronto to cover the cost of flood protection of the Port Lands. This also extended Waterfront Toronto's operation to 2028 without the benefit of an operational review of Waterfront Toronto.

Some of our other specific concerns included:

- Waterfront Toronto was given ownership and control of just 1% of the land it was tasked to revitalize, and therefore the visions of other owners controlled the decisions over waterfront development. Waterfront Toronto also did not pursue more large-scale planning of the entire waterfront development.
- Waterfront Toronto's development mandate overlapped with other entities, which could cause development delays and duplication of effort.
- Governments provided funding on a project-by-project basis through complex funding agreements, as opposed to basing funding on the broader revitalization mandate and expected long-term deliverables and results. The governments also redirected \$700 million (approximately 47%) of their original \$1.5 billion in funding commitments to other agencies for other projects.
- Waterfront Toronto had not met its mandate of making development in the waterfront area financially self-sustaining.
- Waterfront revitalization project costs exceeded initial estimates. Monitoring projects against budgets was difficult due to poor documentation. Waterfront Toronto also provided poor oversight of those projects where it transferred funds to other organizations to conduct the development work.
- The upfront provision for consulting, operating and other costs and contingencies for the Port Lands Flood Protection project was significant (at \$453 million) and amounted to 37% of the projected total.

We made six recommendations to Waterfront Toronto and four recommendations to the Ministry of Infrastructure, consisting of 36 action items, to address our audit findings.

We received commitment from Waterfront Toronto and the Ministry of Infrastructure that they would take action to address our recommendations.

Status of Actions Taken on Recommendations

We conducted assurance work between April 2020 and July 2020. We obtained written representation from Waterfront Toronto and the Ministry of Infrastructure that effective October 2 2020, they had provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Waterfront Toronto Had Limited Authority to Lead Revitalization

Recommendation 1

To have Waterfront Toronto's mandate reflect the public and governments' vision for a revitalized waterfront, and so that it does not overlap with other entities' mandates in the future, we recommend the Ministry of Infrastructure, in consultation with partner governments:

- *conduct a review of Waterfront Toronto's mandate, focusing on defining clearly the role and authority necessary for it to play in revitalizing the waterfront for the remainder of its legislated term;*
- *clarify the roles and responsibilities of existing organizations such as CreateTO and the Ministry of Tourism, Culture and Sport, which may have overlapping mandates or interest in the revitalization of Toronto's waterfront.*

Status: In the process of being implemented by February 2021.

Details

Our 2018 audit found that Waterfront Toronto's development mandate overlapped with the mandates of other entities, which could cause development delays and duplication of effort. These other entities were the former Toronto Economic Development Corporation (TEDCO), which is now included in CreateTO; Infrastructure Ontario; the Ministry

of Tourism, Culture and Sport; and Ontario Place Corporation. When Waterfront Toronto was created, the roles and mandates of these entities were not re-evaluated or revised, which resulted in overlapping jurisdictions and mandates.

At the time of our follow-up, the three levels of government had begun a strategic review of Waterfront Toronto's mandate, current and future initiatives, governance framework, and financial outlook. The review will also address the overlap between Waterfront Toronto's development mandate and that of other entities. The strategic review is to be completed by the end of February 2021.

Actual Project Spending Exceeded Estimated Project Costs

Recommendation 2

To deliver future projects, such as the flood protection of the Port Lands, on time, on budget and in accordance with the planned scope, we recommend that Waterfront Toronto:

- consistently develop detailed project plans and cost estimates based on engineering and technical studies;
- set budget and completion timelines for each component of the Port Lands flood protection project and other projects using the information and estimates it gathers through the engineering and technical studies;

Status: Fully implemented.

Details

In our 2018 audit, we found that Waterfront Toronto did not have a consistent approach in determining estimated project costs. It relied on a mixture of high-level planning estimates, funding agreements, and spending approvals by its Board as its source of initial project cost estimates.

At the time of this follow-up, Waterfront Toronto had begun the delivery of two new projects—York Street Park and the Port Lands flood protection project. Waterfront Toronto developed project plans

and cost estimates based on engineering and technical studies for these two projects. For the York Street Park project, an architectural firm had completed design plans and cost estimates, and these were included in its signed delivery agreement with the City of Toronto. The estimated date of substantial completion for this project is July 2022.

The Port Lands flood protection project had signed project charters for all of its 23 sub-components, and Waterfront Toronto had completed design plans to establish baseline budgets and scheduled timelines for each sub-component. The design plans were based on engineering and technical studies done by an international architectural firm.

- ensure all levels of government have signed off on project spending needs before commencement of a project.

Status: Fully implemented.

Details

In our 2018 audit, we noted that Waterfront Toronto had spent a total of \$49 million on cancelled projects. For example, it spent \$28 million on planning the district heating plants for the East Bayfront and West Don Lands neighbourhoods. Waterfront Toronto's Board had to cancel the project when the province would no longer fund the construction.

In our follow-up, we found that Waterfront Toronto had implemented a new enterprise resource planning (ERP) system in December 2019, which has system controls to ensure that a signed funding agreement is in place before a project is begun. Costs cannot be charged to a project until the project agreement has been signed, and costs cannot be charged beyond the committed funding amount.

Senior representatives from the three levels of government sit on the Intergovernmental Steering Committee, which provides governance and oversight to Waterfront Toronto and meets quarterly (or more often if required). The committee has received the design estimates for the Port Lands flood protection project. Only the City is involved in York Street Park project, and it has signed off on

the project scope and budget through the signed delivery agreement.

Recommendation 3

To have the required systems and procedures in place to effectively manage the Port Lands flood protection project and other projects, we recommend that Waterfront Toronto:

- *complete the implementation of a project management information system to track project progress against budgets and timelines;*
- *actively monitor change orders, investigate instances where cost trends suggest budgets may be exceeded and take corrective actions when necessary, such as modifying the scope of a project or simplifying its delivery to ensure project costs are within budget;*
- *provide regular updates to senior management on project status with explanations for significant variations between budget and actual cost;*
- *provide Board members with regular project progress updates, including comparisons to budgets and timelines, to enable them to exercise oversight;*
- *provide the three levels of government with regular project progress updates, including actual-expense-to-budget information and timelines, to enable them to exercise their oversight;*

Status: Fully implemented.

Details

In our 2018 audit, we reviewed all projects over \$10 million that Waterfront Toronto directly managed and found that five of the 13 projects reviewed cost 22% (\$43 million) more than the estimated project cost. We noted that a number of change orders added during construction contributed to additional project costs and work.

As mentioned above, Waterfront Toronto implemented a new enterprise resource planning (ERP) system in December 2019 to track project budgets against project commitments and invoiced costs for each individual project component. This tracking,

combined with monthly data on progress toward project completion, is used to produce monthly and quarterly project reports and dashboards for project managers to enable them to better manage their budgets. The dashboards are provided to the Board of Waterfront Toronto and also shared with all levels of government through the Intergovernmental Steering Committee at its quarterly meetings.

In collaboration with the Tri-government Working Group (Working Group), a sub-committee of the Intergovernmental Steering Committee, Waterfront Toronto developed a Government Progress Report for the Port Lands flood protection that includes actual-expense-to-budget information. The report is sent to the Working Group on a quarterly basis to support funding requests, in accordance with the Contribution Agreement for the Port Lands Flood Protection project. Government Members of the Port Lands Flood Protection Executive Steering Committee and Infrastructure Canada Oversight Committee are represented in the Working Group and on the Intergovernmental Steering Committee:

- **The Executive Steering Committee**—composed of representatives from the three levels of government. The committee provides project oversight and co-ordination and meets on a monthly basis.
- **Infrastructure Canada Oversight Committee**—led by the federal government, but representatives from the provincial and city governments are welcome to attend. This committee ensures that projects are implemented in accordance with their contribution agreement, which contains details such as project scope, timelines, deliverables and reporting requirements. This committee meets at least quarterly.

- *develop and implement guidelines for the review of construction invoices, including appropriate and timely site visits;*

Status: Fully implemented.

Details

In our 2018 audit, we found that before approving payment of construction invoices, Waterfront Toronto engaged external consultants to review invoices against the contract and check for the legitimacy of expenses billed. However, we found that invoice reviews were not documented, and there was no process to guide the review of invoices, such as what type of information or supporting documents reviewers should look for.

During our follow-up, we noted that Waterfront Toronto had updated its invoice-processing guideline in January 2019 to provide guidance with respect to appropriate and timely site visits in order to verify work done before paying an invoice as well as documenting the results of site visits. For instance, after an invoice is submitted by the construction manager, the contract administrator is to review the quality of work performed and prepare the final progress draw payment certification. Prior to payment, the invoice is to be reviewed and signed off by the project manager.

- *establish a file management, document and archival policy.*

Status: Fully implemented.

Details

In our 2018 audit, we noted that prior to 2012, project documents and files were stored only on local hard drives of staff computers. In 2012, Waterfront Toronto introduced a new corporate data server to centralize the storage of project documents to help staff collaborate on projects. However, some project documents and files continued to remain on individual staff computer hard drives and were not transferred to the corporate data server. Over time, these project files and documents could not be located due to staff turnover, and there were no backups for these files. During our audit, we noted that six of 11 project managers had left the organization since 2014.

During our follow-up, we found that Waterfront Toronto had undertaken various actions to

develop a file management, documentation and archiving policy. For example, Waterfront Toronto has developed a policy on privacy of personal information and on file structure and management. Waterfront Toronto also developed and approved a formal Records Retention policy in September 2020.

Waterfront Toronto Had Weak Oversight over Projects It Funded Other Organizations to Deliver

Recommendation 4

To improve oversight of organizations receiving funding from Waterfront Toronto so that projects are delivered on time, on budget and in accordance with the planned scope, we recommend that Waterfront Toronto:

- *include project budgets and timelines for completion in formal agreements with recipient organizations;*
- *approve projects and associated funding only after satisfying itself that the funds requested by recipient organizations are based on detailed and reliable budget estimates;*
- *require and review quarterly project updates and reports from recipient organizations and follow up with the recipient organization in cases where there are risks of cost overruns;*
- *provide Board members with regular project progress updates, including comparisons to budgets and timelines, to enable them to exercise oversight;*
- *provide the three levels of government with regular project progress updates, including actual-expense-to-budget information and timelines, to enable them to exercise their oversight;*

Status: Fully implemented.

Details

In our 2018 audit, we found that Waterfront Toronto provided poor oversight of those projects where it transferred funds to other organizations to conduct

the development work. We reviewed all projects over \$10 million and found that five of the eight projects did not include any cost estimates in the agreements between Waterfront Toronto and the recipient organizations. One of the projects cost 55% (\$49 million) more than its initial estimated cost.

During our follow-up, we found that Waterfront Toronto created a new policy and procedure in September 2020 to enhance the oversight of future projects for which it transferred funds to other organizations to conduct the development work. At the time of our follow-up, Waterfront Toronto did not have any project funding agreements with other organizations and informed us that it did not anticipate transferring any major project funding to recipient organizations over the next five years.

- *develop and implement processes for the review of contractor invoices provided by recipient organizations, including appropriate and timely site visits;*

Status: Fully implemented.

Details

In our 2018 audit, we found that before Waterfront Toronto reimbursed recipient organizations for expenses they incurred in delivering projects, Waterfront Toronto's internal policy required it to engage external consultants to review invoices against the contract and check that expenses billed were legitimate. However, we found that rather than engaging external consultants to review invoices, Waterfront Toronto relied only on the recipient organization itself to confirm that all charges were for legitimate project costs.

In our follow-up, as noted in **Recommendation 3**, we found that Waterfront Toronto had updated its invoice-processing guideline in January 2019 to provide guidance with respect to the requirement for external consultants to make appropriate and timely site visits in order to verify work done before paying an invoice, as well as to document results of the site visits.

- *establish a file management, documentation and archiving policy.*

Status: Fully implemented.

Details

In our 2018 audit, we noted that agreements between Waterfront Toronto and organizations that it paid to deliver projects, such as the shoreline restoration in Port Union delivered by the Toronto and Region Conservation Authority, broadly outlined the responsibilities of each party. Recipient organizations were required to maintain a master project schedule plan and submit monthly and quarterly progress reports and a final report, at completion of project, to Waterfront Toronto and to each level of government. However, Waterfront Toronto did not have a project management information system to track and store these reports. As a result, it was unable to find all such documents it may have received, to provide them to us.

At the time of our follow-up, as noted in **Recommendation 3**, Waterfront Toronto had developed a policy on privacy of personal information and on file structure and management. Waterfront Toronto also developed and approved a formal Records Retention policy in September 2020.

Waterfront Toronto Not Financially Self-Sustaining as Mandate Anticipated

Recommendation 5

To further develop the waterfront area in a financially self-sustaining manner, we recommend that Waterfront Toronto create and implement a plan for making revitalization self-sufficient, which could include leveraging private-sector funding and revenue-generating sources such as corporate partnerships and philanthropy.

Status: In the process of being implemented by March 2021.

Details

In our 2018 audit, we found that Waterfront Toronto had not met its mandate of making

development financially self-sustaining. Waterfront Toronto has a mandate to ensure that ongoing development in the waterfront area can continue in a financially self-sustaining manner, but it had been dependent on government funding and was unable to sustain ongoing development without it.

In our follow-up, we found that Waterfront Toronto had established a Fundraising Steering Committee in May 2019 to develop a fundraising action plan. The plan was reviewed and approved by the Board in December 2019 as part of the rolling five-year strategic plan. Waterfront Toronto began to put the fundraising action plan into effect as of January 1, 2020, by building organizational capacity in fundraising, building a donor pipeline, creating volunteer leadership, and developing a campaign strategy to advance potential new projects. Waterfront Toronto expected to have the plan fully implemented by March 31, 2021.

Intergovernmental Steering Committee Does Not Have a Project Decision-Making and Dispute Resolution Framework

Recommendation 6

To have effective communication and decision-making processes in place to support future vitalization of the waterfront, we recommend that the Ministry of Infrastructure in conjunction with its partner governments:

- *develop a framework to guide project-funding decisions; and*
- *establish a formal dispute resolution process.*

Status: Fully implemented.

Details

In our 2018 audit, we found that the Intergovernmental Steering Committee did not have a framework or guide to support its decision-making process regarding what types of projects to fund to advance the revitalization mandate. Such a framework could be useful in ensuring consistency

given that the membership of the Steering Committee had changed a number of times over the years. In addition, we found that there was no formal dispute-resolution mechanism that the governments could use if they could not come to an agreement on an issue.

During our follow-up, we noted that a Memorandum of Understanding (MOU) among the province of Ontario, government of Canada, City of Toronto and Waterfront Toronto had been signed on July 31, 2020, to clarify the relationship between the three levels of government and Waterfront Toronto and their roles and responsibilities with respect to projects and initiatives in the Designated Waterfront Area. The MOU establishes principles to guide the Intergovernmental Steering Committee for project funding (for example, by examining if the proposed project has economic, social and cultural value, promotes environmental sustainability, demonstrates fiscal responsibility, or promotes and encourages partnerships). The MOU also outlined the formal dispute resolution process and expected timelines.

Some Best Practices Not Part of Projects despite Multiple Overseas Trips to Learn about Waterfronts

Recommendation 7

To successfully revitalize the remaining waterfront land, we recommend that Waterfront Toronto work with the three levels of government to consider incorporating in the Port Lands flood protection area and other projects best practices and lessons learned from past Waterfront Toronto revitalization projects, projects in other jurisdictions, and the features commonly associated with successful revitalization that Waterfront Toronto identified between 2003 and 2006 and in May 2018, such as large public spaces, more building height control, public access to the water's edge, festivals and cultural attractions.

Status: Fully implemented.

Details

In our 2018 audit, we found that between 2003 and 2006, Waterfront Toronto's leadership team conducted an international review of best practices by travelling to study revitalization in other cities. Waterfront Toronto could not confirm after the international review whether a formal presentation or report of findings was produced for the review of the Board of Directors. We found that it had internally identified general best practices to revitalize waterfront areas, however. These included large public spaces, building height control, public access to the water's edge and recreational use of water.

During our follow-up, we found that Waterfront Toronto had incorporated some of the lessons learned from its initial review of top 10 global waterfront cities and their attributes into its December 2019 rolling five-year strategic plan. In addition, we found that in February 2020, Waterfront Toronto looked at the best practices of leading waterfront cities to compare against Toronto's existing waterfront attributes.

We noted that in its plan for Villiers Island Precinct, which is the first precinct to be developed after the completion of the Port Lands flood protection project, Waterfront Toronto included plans for 34 acres of parks and public spaces with direct access to the water. We also noted that in its May 2020 presentation to the Board of Directors, Waterfront Toronto demonstrated the building height control of its development area in East Bayfront to be much lower than its surrounding development areas.

Performance Measures and Targets Not Established

Recommendation 8

In order for the three governments to be able to monitor and assess the progress and performance of Waterfront Toronto and its future revitalization projects in the Port Lands and other projects, we recommend that the Ministry of Infrastructure, in

conjunction with its partner governments and the Intergovernmental Steering Committee:

- *develop a set of performance measures and targets that are linked to Waterfront Toronto's legislated objectives;*
- *require Waterfront Toronto to publicly report on its performance against the targets set in these objectives at least annually;*

Status: Fully implemented.

Details

In our 2018 audit, we found that neither Waterfront Toronto nor its overseeing governments had developed a set of formal performance measures and targets to assess whether its mandate or policy objective were being achieved. We also found that while Waterfront Toronto periodically published a report that included descriptions of projects and various statistics, the information in these reports was not directly related to Waterfront Toronto's legislated objectives and was insufficient to assess the effectiveness and efficiency of Waterfront Toronto's operations on an annual basis and over time.

At the time of our follow-up, Waterfront Toronto had developed a set of performance measures and targets linked to the organization's mandate. One example is the annual 2019/20 target of creating 2,000 full-time jobs and \$200 million total economic value added to the economy. These performance measures were reviewed by the three levels of government and included in the Memorandum of Understanding noted in **Recommendation 6**. Waterfront Toronto included these measures in its December 2019 five-year strategic plan. The Memorandum of Understanding also requires Waterfront Toronto to report publicly on these performance measures at least annually, which Waterfront Toronto has done in its 2019/20 Annual Report.

- *regularly encourage public input from the broader population, not just local waterfront residents, into the development of the waterfront area.*

Status: Fully implemented.

Details

In our 2018 audit, we found that part of Waterfront Toronto's mandate is to encourage public input on the development of the waterfront area. We met with community groups representing residents along the waterfront who expressed positive views of Waterfront Toronto and the extensiveness of its community consultation. However, Waterfront Toronto did not engage in a similar manner with the public beyond the local waterfront residents. Engaging a broader population would have ensured that the interests of all Ontarians were known and incorporated into the design and planning of waterfront revitalization projects.

In our follow-up, we found that Waterfront Toronto had created performance measures and targets for encouraging public input, and that it had publicly reported on them in April 2019. For instance, the 2019/20 fiscal year's target for the number of public meeting attendees self-identifying as residing outside the designated waterfront area was 25%, and Waterfront Toronto exceeded this target by attaining a percentage of 62%.

In July 2019, Waterfront Toronto also consulted with the broader public on the Quayside project by hosting four public town hall meetings across the City of Toronto, an online survey and seven drop-in information sessions held at different branches of the Toronto Public Library. These meetings attracted over 1,000 participants. Additional Quayside public consultations were held and attended by approximately 450–500 participants.

Planning and Development of the Port Lands

Recommendation 9

To manage the development of the Port Lands with due regard for economy, we recommend that Waterfront Toronto:

- *produce detailed construction cost estimates for each of the 23 component projects of the flood protection for review by the funding governments;*

- *report quarterly on progress against these budgets;*

Status: Fully implemented.

Details

In our 2018 audit, we noted that in May 2018 the three levels of government had signed joint agreements to fund a total of \$1.25 billion toward flood protection of the Port Lands. The funding was determined based on a 2016 due diligence report prepared by Waterfront Toronto, which divided the project into 23 sub-components and included preliminary cost projections.

In our follow-up, we found that Waterfront Toronto had executed detailed project charters in April 2019 for all 23 sub-components, with budgets based on design plans. The Intergovernmental Steering Committee reviewed these cost estimates in March 2019. In November 2019, Waterfront Toronto updated the design plans and reported these updates to the Intergovernmental Steering Committee. The committee meets quarterly and includes the Port Lands flood protection project updates on its meeting agenda. In addition, Waterfront Toronto provides quarterly updates to its finance, audit and risk management committee, its Board of Directors, and the Infrastructure Canada Oversight Committee. Waterfront Toronto also provides monthly budget progress updates to the Port Lands Executive Steering Committee, which includes representation from all three levels of government.

- *assess the effectiveness of its work on reducing the impact of construction risks, which could otherwise increase the final cost of flood protection.*

Status: In the process of being implemented by March 2024.

Details

In our 2018 audit, we found that the risk contingency in the cost projections for the Port Lands flood protection project was calculated by a consultant using a computer simulation incorporating 62 risks, such as potential construction or other project

problems, and the cost overrun associated with each. While Waterfront Toronto informed us that it believed the large risk contingency amount was necessary due to the high-risk nature of this project, we noted that some risks identified included risks that could be mitigated by the extensive studies already conducted, or associated with decisions outside of its control whose cost would likely be borne by others.

Since our 2018 audit, Waterfront Toronto has been engaging a third-party expert risk consultant to identify and quantify project risks on a continuing basis. It also submits quarterly reports to its capital peer review panel, which is an independent group of experts that assesses project risk and provides advice to management. Waterfront Toronto's Board of Directors has also been engaging an independent capital project firm that reports directly to its finance, audit and risk management committee on project risk.

Waterfront Toronto has also been working to reduce the impact of construction risks over which it has control through efforts such as the following:

- As part of the Port Lands flood protection project, field liaison representatives of the Mississauga of the Credit First Nation must monitor the excavation in the Don River valley to ensure Indigenous artifacts are identified and retained. However, due to COVID-19, the field liaison representatives were not available to conduct monitoring for the river valley excavation and fisheries, a situation that would ordinarily require work to cease. To mitigate the risk of project delays, Waterfront Toronto engaged Toronto Regional Conservation Authority's archaeologists and fisheries monitoring staff to monitor the work and upload videos to a shared website for the field liaison representatives to observe from home.
- Waterfront Toronto recognized that there was a risk in installing the new sanitary, stormwater and water services, since this infrastructure needs to be 15 metres deep and requires extensive excavation work.

Waterfront Toronto mitigated the risk by selecting a method of construction that limits disturbance of existing ground conditions at this depth.

Smart City Project with Sidewalk Labs

Recommendation 10

It is important to protect the public interest and ensure responsible and transparent integration of new digital technology within urban design when creating a mixed-used smart city. Due to the nature, complexity and potential long-term impacts from the initial establishment of digital data infrastructure planned for Toronto's waterfront in the form of a smart city (the first of its kind in Canada), we recommend that the provincial government, in consultation with partner governments:

- *conduct further study on the activities of Waterfront Toronto and Sidewalk Labs in the planning and development of the smart city in Quayside and the broader waterfront area;*
- *reassess whether it is appropriate for Waterfront Toronto to act on its own initiative in making commitments and finalizing a long-term partnership arrangement with Sidewalk Labs or whether a separate governance structure is needed that allows for more direct provincial oversight;*

Status: No longer applicable.

Details

On May 7, 2020, Sidewalk Labs announced that it would no longer pursue the Quayside project. Waterfront Toronto publicly announced in June 2020 that it would be issuing a new request for proposals for Quayside, with a focus on affordable housing and long-term-care housing.

As a result, the action items relating specially to Sidewalk Labs in the original report are no longer applicable.

- *establish an advisory council comprised of smart city/digital data infrastructure experts (e.g., information technology, privacy, legal, consumer protection, infrastructure development, intellectual property and economic development) to provide proactive advice on the development of a policy framework to guide the establishment of a smart city in Ontario;*

Status: Fully implemented.

Details

In June 2019 the province established the Minister's Digital and Data Task Force, comprising eight individuals with backgrounds in information technology, privacy, law, consumer protection, infrastructure development, intellectual property and economic development. The task force was set up to make recommendations on digital and data issues, provide advice to the Minister, and review and provide advice on topics that are relevant to the creation of a smart cities policy framework.

- *conduct public consultations to consider in the development of a policy framework for a smart city in Ontario;*
- *consult throughout government on the roles and responsibilities government ministries and agencies could have during the development, implementation and operation of a smart city;*
- *to protect the public's interest, establish the policy framework, through legislation, for the development of a smart city in Ontario that addresses: intellectual property; data collection, ownership, security and privacy; legal; consumer protection issues, infrastructure development and economic development; and*
- *communicate openly and transparently with the public on what to expect from a smart city project.*

Status: In the process of being implemented by December 2021.

Details

As part of the provincial review of Sidewalk's Master Innovation and Development Plan, the Minister

of Infrastructure had engaged ministry partners on relevant topics. However, the Ministry noted that its involvement in the smart city initiative was limited to its oversight of infrastructure development by Waterfront Toronto, and that the action items identified in our recommendation would be addressed by the government's Digital and Data Action Plan, to be carried out by Ontario Digital Service, a division under the Treasury Board Secretariat.

The Ontario Digital and Data Action Plan is expected to focus on several priorities, including the following three:

- promoting public trust and confidence in the data economy by introducing world-leading, best-in-class privacy protections;
- creating economic benefits by ensuring a level playing field while enabling the creation and scaling up of data-driven businesses; and
- enabling better, smarter, efficient government by unlocking the value of government data, building data skills and capacity in the public service, and promoting the use of data-driven technologies.

Ontario Digital Service has consulted with the public on digital and data policy as it developed Ontario's Digital and Data Action Plan. Phase 1 of the public consultations was held between February 5 and March 7, 2019, through online surveys, with 773 responses received. Responses indicated that current data protections should be strengthened; businesses can do a better job explaining to people what they are doing with the data they collect; people want more control over how their data is used; and government and independent organizations could have a role to play in addressing these challenges.

Phase 2 of consultations included regional roundtables in seven locations across Ontario, conducted between July and November 2019. We were informed that the results of the consultations would inform the development of a policy framework, including the development of policies relating to smart cities in Ontario.

Phase 3 would refine and finalize the strategy after consultation with both the public and businesses in person and online. At the time of this follow-up, Phase 3 of consultations had been paused due to the COVID-19 pandemic. Ontario Digital Service has indicated that Phase 3 of consultations will resume in December 2020 and has also committed to complete the public consultations, development of a policy framework, and associated work with other ministries by December 2021.