



First Nations Tax Commission
Commission de la fiscalité des premières nations

Indigenous Land Title Registry & First Nations Infrastructure Institution

Presented by the First Nations Tax Commission

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Overview

- Economically and Fiscally Sustainable Communities
- The Opportunities
- The Challenges
- Two Proposals
- Next Steps



Sustainable Communities

- Water, sewer, road, communication and housing infrastructure is the health and economic backbone of communities.
- The majority of existing infrastructure in First Nation communities is unsustainable.
- Substandard Indigenous infrastructure has significantly contributed to existing socio-economic outcome disparities between Indigenous communities and other Canadian communities.
- Transition to more economically and fiscally sustainable infrastructure to support stronger First Nation economies and greater self-sufficiency.



Sustainable Communities

- **Economic Sustainability**
 - Raises economic outcomes through improvements to employment, health, income, education or investment.
 - Raises individual productivity (health and education), increases investment and trade, and generates government revenues.
- **Fiscal Sustainability**
 - Built in a cost effective and timely fashion; requires governance, legal, and admin framework to be in place.
 - Sufficient fiscal resources; a plausible infrastructure lifecycle financial plan.



The Current Opportunity to Build More Sustainable Communities

- INAC to Exit Infrastructure Business
 - Finance Canada has instructed INAC to ‘get out of the infrastructure business.’
- Division of INAC
 - The PM’s announcement in August that INAC had been divided into two departments – one to facilitate this transition (Crown-Indigenous Relations) and one to be systematically dismantled as indigenous governments and institutions assume jurisdictions (Indigenous Services).
- The federal government has challenged First Nations and First Nation institutions to bring forward proposals that will implement s. 35 of the constitution and facilitate the dissolution of the Indian Act and the dismantling of INAC.



Challenges to Sustainability Changes

- As stated by many leaders, any proposal to accomplish these objectives is challenged:
 - Respect for self-determination
 - Inadequate and / or uneconomic land base;
 - Insufficient fiscal relationship;
 - Legislative and institutional framework frozen by Indian Act;
 - Management capacity gaps because of INAC;
 - High switching costs away from old system to new one; and
 - Create and sustain economic and fiscal benefits to communities and members.



Responding to the Challenges: Two Proposals

- First Nations Infrastructure Institution (FNII) and Indigenous Land Title Registry
- Both are based on the following formula for successfully advancing indigenous policy changes:
 - Indigenous led;
 - Optional to respect the right of self-determination;
 - Legislation to create space for indigenous jurisdictions and institutions;
 - Sufficient indigenous and other government political will to sustain proposal;
 - Deliver economic and other benefits to communities, members, and other governments in the short-term.



First Nations Infrastructure Institution

- The First Nations Tax Commission, the First Nations Financial Management Board, the First Nations Finance Authority and a number of proponent First Nations are proposing the First Nations Fiscal Management Act be amended to add a First Nations Infrastructure Institution (FNII).
- It could provide capacity development services and improved access to infrastructure financing options for interested First Nations.



First Nations Infrastructure Institution

- Core Mandate
 - Help and support interested First Nations transition from unsustainable infrastructure systems to more economically and fiscally sustainable ones.
 - Help interested First Nations assume ownership and jurisdiction over their infrastructure
- Core Performance Measures
 - Reduce time to plan, design, finance and construct infrastructure
 - Reduce financing and construction costs for infrastructure
 - Raise durability of infrastructure and ensure it is more fiscally sustainable
 - Improve economies and opportunities



First Nations Infrastructure Institution

- **FNII's Purposes**

- Support aggregations of indigenous communities as part of nation groupings or to achieve economies of scale;
- Promote understanding of the infrastructure development process of indigenous governments and the linkage with economic and fiscal sustainability;
- Provide support for the implementation of standards and laws required to support infrastructure projects;
- Develop transparent formulas to efficiently provide federal infrastructure funding to all participating indigenous governments;
- Implement formulas and processes to secure stable federal infrastructure funding that supports long term infrastructure financing through the First Nations Finance Authority;
- Assess infrastructure project readiness and support infrastructure planning for participating indigenous governments;



First Nations Infrastructure Institution

- FNII's Purposes
 - Develop training programs and build capacity and administrative efficiencies in participating indigenous governments for infrastructure construction, management and financing;
 - Support more integrated infrastructure planning (environmental, economic, capital, land and financing) for indigenous governments;
 - Work with the other fiscal institutions to build the necessary legal and administrative frameworks and systems that support improvements to planning, financing, maintenance and operation of indigenous infrastructure;



First Nations Infrastructure Institution

- FNII's Purposes
 - Advocate for new FMA revenue streams within an improved fiscal framework to build fiscally sustainable indigenous infrastructure;
 - Assess infrastructure risks and develop risk management strategies including public private partnerships for indigenous infrastructure and;
 - Achieve administrative efficiencies in the provision of services, procurement and funding to participating indigenous governments



Indigenous Land Title Registry

- A review of the various First Nation land registries supports the following assertions:
 - There are too many First Nation deed based registries and they do not support transactions such as those requiring priority or addressing estates as efficiently as Torrens registry systems.
 - The framework to support accuracy, reliability and security is not as robust for most First Nation land registries compared to a Torrens title registry.
 - The ILS survey standard does not support a national First Nation land registry system.
 - The costs of designing, developing and switching from existing registries to an improved registry have been preliminarily assessed as significant



Indigenous Land Title Registry

- A number of First Nations proponents are proposing:
 - The legislative and regulatory base for a national indigenous Torrens Land Title registry that is managed and operated by a national First Nation institution.
 - A detailed regulatory process to convert current ILRS deeds (and prioritized deeds) into titles for a Torrens registry.
 - The use of Canada Lands Survey standards for the title system to reduce implementation costs.
 - The possible application of this system to other indigenous registries if there is interest from those First Nations.



Indigenous Land Title Registry

- Why?
 - A modernization of the title system for First Nations;
 - Torrens land registries are superior to deeds land registries, such as the ILRS:
 - More certainty, as title is guaranteed and backed by an assurance fund
 - Significantly less legal review and associated costs
 - Registrations are significantly faster in Torrens system
 - All provinces have transitioned or will soon transition to Torrens title registry



Progress towards a new registry

- A draft regulation has been completed
 - Proposed Regulation has been developed.
 - Describes operation and procedures of the system.
 - Registry and title system legal requirements are contained in the regulation to ensure certainty and administrative efficiency.
 - The regulation reflects best practices from Torrens legislation, including:
 - Governance;
 - Registrations;
 - Subdivision approvals;
 - Plan registrations;
 - Dispute resolution; and
 - An assurance fund.



Indigenous Land Title Registry

- Online Only Registry
 - A review of the existing Land Title Registries in BC, Ontario and Nunavut led to the recommendation that the land title registry only be provided through an online service (no paper service offered)



Next Steps

- Learn more about proposals
 - FNTC.ca
 - FNII.ca (in development)
 - ILTI.ca



Thank you