

BACKGROUND PAPER: POSSIBLE LESSONS

Possible Lessons for the First Nations Infrastructure Institution

The preliminary design proposal for FNII has evolved from engagement with First Nation proponent and First Nation organizations and from a review of the experience, lessons and literature from six principle sources.

1. Why Nations Fail – In the 1950s and 1960, the former African colonies, administrative costs become too high so the colonizers willingly turned over ownership and responsibilities of governance to the Indigenous populations. Daron Acemoglu and James Robinson wrote a book about these post-colonial institutions called *Why Nations Fail*. They found that many of the post-colonial governments established institutions that provided economic and fiscal benefits to few at the expense of the many and this has led to the continuation of widespread poverty in many post-colonial African countries. Some countries, however, did develop institutions that led to widespread economic growth. Theirs and other similar research provides important lessons for the development of FNII and other proposed Indigenous institutions.
2. Provincial Experience - In the late 1960s and early 1970s many provincial governments in Canada wanted to turn over infrastructure responsibility, ownership and jurisdiction to the local governments. They embarked on a significant effort to build the legal and administrative systems for local governments and helped them finance initial economic infrastructure to give them the basis for future growth. Many local governments successfully assumed infrastructure jurisdiction from this approach. Interviews with a few deputy ministers from this era have provided important potential lessons for FNII.
3. Auditor General – Beginning in the late 1990s and continuing to this day, the AG has conducted several audits on Indigenous programs including infrastructure. Their findings and the largely failed efforts to correct the problems provide a better understanding of the systemic challenges and possible lessons to successfully implement change.
4. Infrastructure Canada – In 2002, Infrastructure Canada was established to provide federal infrastructure funding and support to provincial and local governments. Its founding legislation provides a possible preliminary model for FNII and its institutional experience and success provides several lessons as well.
5. FMA Institutions – The FMA become operational in 2007. In 10 years there are now over 230 First Nations members of the FMA. This success provides several lessons and a potential legislative framework and governance model for FNII.
6. Comparison of Infrastructure systems – In 2016, Urban Systems did research for the FNTC comparing local government infrastructure life cycle systems to those of Indigenous governments. It systematically confirmed what numerous other research had indicated as well – Indigenous infrastructure is costlier, takes longer to develop, and typically has a

shorter service life than other infrastructure. This comparison and the reasons for it, provide some potential lessons for FNII.

Lessons for FNII

These sources provide potential lessons for FNII, which have been divided into three broad categories; (a) Purposes and Services (b) Politics and Independence (c) Long Term Sustainability. The lessons in each category are discussed briefly along with the source of the lesson.

Purpose and Services

Focus on How Economic and Fiscal Benefits Improve Communities – Institutions must deliver broad based benefits to communities and individuals. This is why FNII will focus on building fiscally and economically sustainable infrastructure that supports progress on other objectives such as culture, health, education, child welfare and more local jurisdiction. It will be important for FNII to not only help plan to build sustainable infrastructure but also to communicate and measure how better infrastructure supports these other community objectives. This lesson was clear in the experience of the provinces, *Why Nations Fail* and the success of the FMA. The AG also consistently criticizes INAC for not building sustainable Indigenous housing and other infrastructure.

Economic Growth Matters – Institutions that support universally expanded economic opportunities (employment, trade, property, etc) for all citizens are considered the most inclusive economic institutions possible. Stated differently, institutions that support freedom of movement and trade for all goods, ideas, capital and people are the most economically inclusive institutions and are the least likely to lead to failed states. This is clear in *Why Nations Fail* and the experience of the provinces. It is also clear in the AG criticism of current infrastructure systems where economic value is often not considered. Lastly, a key purpose of Infrastructure Canada is to support Canadian economic growth.

Focus on Client Administrative Efficiency – A principle focus of FNII has to be on reducing the time and cost associated with building First Nation infrastructure. FNII must focus on using its resources to build the local or regional capacity within Indigenous governments to build and maintain sustainable infrastructure systems in cost effectively and timely manner. This means creating samples, templates and standards that support sustainable Indigenous infrastructure. This is a key lesson from *Why Nations*, the provincial experience, the FMA institutions and the comparative research.

Switching Costs are High – The system that FNII will eventually replace has existed for many years. The old system provides benefits to some but these are not broad based inclusive benefits. There will be significant resistance to change. This is clear in *Why Nations Fail* and in the lack of significant systemic changes resulting from AG reports. FNII must focus on keeping

transition costs low. There are a number of lessons for reducing switching costs in the experience of the province, the FMA success and the comparative research of local government infrastructure systems to Indigenous ones.

Politics and Independence

Political Will Matters – There must be political commitment to move from the old system to the new one. This is required for both the existing and new institutions to develop transition plans that reduce their switching costs. One well known example where this didn't happen is that France had to tell its colonial bureaucrats to transfer control to their Vietnam counterparts 4 times in the early 1950s. The effective implementation of FNII requires a clear commitment from Canada. This can be accomplished in the throne speech and the federal budget. This lesson is clear in *Why Nations Fail* and the experience of the provinces, Infrastructure Canada and past efforts to change the federal-Indigenous relationship reviewed by the AG.

Create Independence from Previous Bureaucracy – This is not only important for communication and credibility but it also necessary to ensure that FNII and other institutions are able to deliver their mandate efficiently. This must be reflected in the FNII legislative framework along with the necessary fiscal, administrative and accountability independence from the previous bureaucracy. This lesson is clear in *Why Nations Fail* and in the experience of the FMA institutions. FNII should look at the Bank of Canada and Parliamentary Budget Office as possible models of independence. FNII should also explore the Financial Administrative Act options for its accountability framework.

Don't Create Bureaucratic Empire – The plan to transition INAC and Public Works administration to FNII cannot be perceived as replacing one bureaucracy with another. It will be necessary to communicate how FNII is more cost effective, flexible and responsive than INAC and Public Works. It will also be necessary to show how FNII is focused on developing local and regional capacity instead of its own. There are helpful lessons from provincial governments who successfully transferred jurisdiction and ownership of jurisdiction to local governments. This lesson is evident in *Why Nations Fail* and the success of the FMA.

Leadership is Key – The ability to deliver on an institutional mandate depends on the skills of the institutional leadership. The chair of the FNII board must be able to communicate the work of FNII to communities and parliament. They must be able to grow and maintain Indigenous political support for FNII and they must ensure that the administration delivers more sustainable infrastructure that benefits communities. The administrative leadership must develop a team that delivers efficient and effective services and helps build more durable and cost effective infrastructure in less time. Choosing good FNII leadership will lead to its success. *Why Nations Fail* and the experience of the FMA support the critical importance of board and administrative leadership for FNII.

Long Term Sustainability

Build Institutional Trust Through Client Benefits – The positive economic and fiscal results from FNII supported infrastructure must be communicated broadly to help grow support and trust from other communities. This includes both the benefits in service quality and revenues to communities and the economic, educational, health, housing and other benefits to community members. A reputation for providing beneficial services to communities and members will allow FNII to incrementally grow and maintain Indigenous political support. This is clear in the success of the FMA and provincial approach and the lack of success evident in AG reports and comparative research.

Demonstrate Inclusive Institution Strategy – FNII, the other FMA institutions and other proposed institutions are part of a strategy to build the necessary legal and framework to support broad based Indigenous participation in the economy. This is why the FNII proposal must be accompanied by a series of proposals to expand (FMA) and establish other inclusive Indigenous institutions (stats, land registry and others). This is the path to successful decolonization described in *Why Nations Fail* and practiced by provincial government that facilitated more local government jurisdiction.

Incentives Matter – Good institutional design requires proper institutional incentives to achieve the desired outcomes. For example, the broad purpose of FNII is to transition Indigenous communities from unsustainable to sustainable infrastructure systems. This is more likely to be achieved if First Nations are FMA scheduled, so a formula to securitize federal infrastructure transfers for FNFA debentures would encourage more First Nations to join the FMA. Incentives should also be considered in the FNII legislative and accountability frameworks and transparent funding formulas to ensure FNII delivers better outcomes. As the AG has consistently pointed out there are no consequences in the current system for poor infrastructure outcomes. If anything, the incentives are reversed as INAC receives more resources when there are infrastructure sustainability failures.

Institutional Sustainability and Capacity – Effective institutions must be built to last. They must have sufficient flexibility and strong policy processes to adapt to changes. The board of directors must be well trained on the institutional mandate and service delivery methods. Succession plans must promote continuity, renewal and continued excellence in leadership. All of these sustainable governance best practices must be built into FNII. This is evident in the experience of the FMA and the provinces.

Create and Maintain Standards – Standards support administrative efficiency for FNII and participating Indigenous governments. They make it easier to create and maintain Indigenous infrastructure jurisdiction. They lower the costs of doing business and improve prospects for economic growth and mobility. This lesson was clear in the provincial context, the FMA success and the comparative research. The lack of transparent standards and formulas is often a subject of AG criticisms of the current system. Another benefit of standards is that FNII will

likely have a number of regional offices to deliver services. FNII should use standardized methods and training to ensure consistent service quality and efficiency in a manner similar to the franchise model.

Independent Secure Revenues – As is evident in the story of Infrastructure Canada, the only sustainable revenue that they have to support long term infrastructure projects is the federal gas tax. This is important for FNII because of the volatility of Indigenous infrastructure funding as is evident in comparative studies and AG reports. A secure revenue stream such as the Aboriginal Resource Tax or other Indigenous tax jurisdictions must be connected to Indigenous infrastructure to provide fiscal sustainability. Also FNII should also consider protecting the formula for global infrastructure support in its legislation so it can create legislative protection similar to the CHST and equalization formula transfers to the provinces.