

ASSEMBLY OF
FIRST NATIONS

SPECIAL CHIEFS
ASSEMBLY



ASSEMBLÉE DES
PREMIÈRES NATIONS

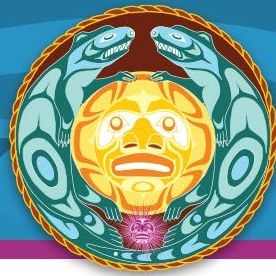
ASSEMBLÉE
EXTRAORDINAIRE
DES CHEFS

DIALOGUE SESSION HOUSING & INFRASTRUCTURE

DECEMBER 4-6, 2018



DU 4 AU 6 DÉCEMBRE 2018



OVERVIEW OF HOUSING & INFRASTRUCTURE DIALOGUE SESSION

This Dialogue Session will provide information on two (2) items that are the subject of resolutions at this Special Chiefs Assembly (SCA), namely the:

1. Draft First Nations National Housing and Infrastructure Strategy, and
2. the First Nations Infrastructure Bank.

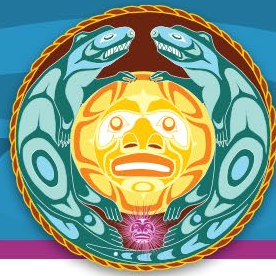
Some of the other items were not addressed at the July 2018 Annual General Assembly (AGA), labelled as “new” below, while others are updates of items that Chiefs would have seen at the July 2018 AGA, labelled as “on-going”:

- First Nations Market Housing Fund (new)
- CMHC On-Reserve Programs and Technical Service Providers (on-going)
- Deep Dive On First Nations Housing On Reserve (new)
- First Nations Housing and related Infrastructure – Data Gathering Exercise (on-going)
- Operations and Maintenance Policy review and Pilot Projects
- Safe Drinking Water for First Nations Act (SDWFNA) (on-going)
- “Monetization” Pilot Project (new)



Housing and Infrastructure Reform

- The Assembly of First Nations (AFN) is mandated, pursuant to resolutions passed by the Chiefs-in-Assembly, to engage with the Federal Government on housing and infrastructure.
- First Nations must lead the development of a First Nations National Housing and related Infrastructure Strategy to ensure the future housing and related infrastructure reform is envisioned from First Nations' perspectives and respects regional variances.
- Moving towards First Nations care, control and management of housing and infrastructure requires engagement with First Nations to discuss needs, plans and strategies.



Implementing Resolutions

- Resolution 98/2016, supports the development of a First Nations National Housing and related Infrastructure Strategy.
- Resolution 27/2017, supports establishment of a joint Working Group to develop the Strategy and a Strategic Plan.
- Resolution 87/2017, supports the Policy Reform Framework to be included in the Indigenous Services Canada's (ISC) Memorandum to Cabinet (MC).



Update from Joint Working Group (AFN, Chiefs Committee on Housing and Infrastructure (CCoHI), ISC and Canada Housing & Mortgage Corporation (CMHC))

- Developed and presented highlights of a Draft Policy Reform Framework Towards a First Nations Housing and Infrastructure Strategy at December SCA 2017 to be included in Indigenous Service Canada's (ISC) Memorandum to Cabinet (MC).
- ISC's MC was scheduled to be presented to Cabinet in December 2017 but was postponed.
- ISC was planning for a Fall 2018 MC where the Policy Reform Framework would be attached as an Annex but it is delayed.
- The Policy Reform Framework will form part of the building blocks for the development of a National Strategy.



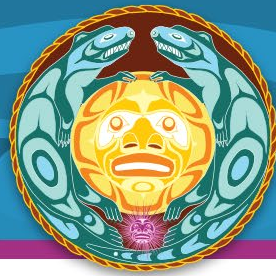
Draft First Nations Housing and Infrastructure Strategy Update

- The Joint Working Group developed a Draft First Nations National Housing and Infrastructure Strategy.
- A key component to this strategy is data gathering to establish First Nations needs in housing and related infrastructure.
- A data collection exercise will be undertaken from November 2018 to February 2019.
- The AFN will continue to seek the co-development of ISC's MC and will advocate for new, additional and sufficient funding to support the transition process, including dedicated resources to support engagement with First Nations, and the development and implementation of regional strategies and plans.



Draft First Nations Housing and Infrastructure Strategy Goals

- Establish a First Nations Housing Policy and Research Institute.
- Establish national and regional housing and related infrastructure delivery frameworks to assist in the design of governance models that are independent from political influence.
- Coordinate housing governance delivery systems across all jurisdictions to better serve First Nations members living away from their First Nations in urban, rural and northern areas.
- The transition will require sufficient, sustainable and predictable funding to support First Nations and First Nations organizations to undertake the care, control and management of housing and related infrastructure.
- Ensure the new First Nations-driven housing systems have funding that is adequate, predictable and long-term that is geared to satisfying First Nations housing needs.



Draft First Nations Housing and Infrastructure Strategy Goals *cont'd*

- Develop ways to leverage government housing and related infrastructure investments to enhance financial opportunities.
- Identify and develop new financial mechanisms for housing delivery.
- Maximize funding for housing delivery systems across all jurisdictions to better serve First Nations members living away from their First Nations in urban, rural and northern areas.
- First Nations have the skills and capacity to exercise their responsibility, care, control and management over housing and related infrastructure.
- Hold information sessions with First Nations leadership, communities, technical experts, regional organizations, and underrepresented groups, etc., on strategic considerations of what incremental steps can be taken now, during and after transition.



Draft First Nations Housing & Infrastructure Strategy Engagement Sessions

- The AFN will support engagement sessions with First Nations on the development and implementation of a National Strategy, regional strategies and plans.
- BC First Nations Housing and Infrastructure Council (HIC) secured mandate to develop a regional housing and infrastructure authority.
- AFN Quebec/Labrador presented a regional strategy to Chiefs for approval.



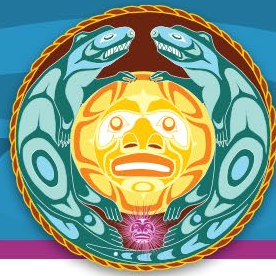
Draft First Nations Housing & Infrastructure Strategy Next Steps

- Housing and related Infrastructure Data Collection Exercise.
- The Draft Strategy will form part of broader initiatives that includes the following building blocks:
 - The Policy Reform Framework Towards First Nations Housing and Infrastructure attached as an Annex to ISC's MC (Target TBC).
 - First Nations Strategy and Data Collection Exercise (Target early 2019).
 - Strategic Plan with short, medium and long-term goals and objectives (Target Spring 2019).
 - Regional Strategies and Plans (currently underway and on-going).
 - Draft Strategy and Data Collection Exercise presented in ISC's MC (Target TBD).



First Nations Infrastructure Bank

- AFN Resolution 87/2017, *Support for a National Housing and Infrastructure Policy Reform Framework (PRF)*, authorizes the AFN to pursue consideration of many infrastructure related matters.
- A proposed resolution at this SCA will seek additional authority to pursue information for Chiefs to consider at a future AFN Chiefs assembly for the creation of a “First Nations Infrastructure Bank”.
- The Government of Canada has recently made available, more than \$180 billion over 12 years exclusively to provinces and territories through a national Infrastructure Bank to fund infrastructure priorities in five areas; public transit; Green; Social; Trade and Transportation; and Rural and Northern Communities.
- First Nations are eligible for the pan-Canadian funds subject to high quality proposals made to provincial and territorial governments and those proposals will compete for funds against similar proposals from other Indigenous and non-Indigenous proponents, i.e. there are no First Nations set-aside.
- The AFN recently informed the Deputy Minister of Infrastructure Canada that any program that requires First Nations to apply to Provincial or Territorial Governments for funds will not work because those governments have a poor track record where they either ignore First Nations, act contrary to First Nations rights and interests or provide minimal attention to First Nations positions and proposals.



First Nations Infrastructure Bank

- The AFN also informed the Deputy Minister of Infrastructure Canada that First Nations must have a distinct means of accessing infrastructure funds that is exclusive to them, such as a “First Nations Infrastructure Bank”.
- In 2005, previously named Indigenous and Northern Affairs Canada, identified First Nations housing & infrastructure needs at \$15-25 billion over 15 years.
- AFN and AFN-affiliated regions have started the process of gathering data on housing related infrastructure but that does not include other community infrastructure.
- First Nations showed a 22% participation rate in a recent Federal Government’s infrastructure needs survey that shows the Federal Government’s method of working with First Nations does not work.
- First Nations are developing First Nations controlled and managed institutions in a wide range of sectors including infrastructure.



First Nations Infrastructure Bank

The authority-seeking section of the proposed SCA Resolution reads as follows:

- **THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly** urge the federal Government to provide funds to the AFN to allow it to:
 - Engage all First Nations in a community infrastructure data gathering exercise to determine the infrastructure gap.
 - Explore the development of options for direct Federal Government infrastructure funding to First Nations, including a First Nations Infrastructure Bank to be similar to the pan-Canadian Infrastructure Bank except it would provide exclusive access to First Nations for infrastructure funding.
 - Recommend to Chiefs in Assembly the preferred option to be in place prior to any future multi-year Federal infrastructure funding program decision is made.
 - Urge the Federal Government to work in partnership with AFN to urgently develop measures to facilitate fair, reasonable and proportional First Nations access to the current \$180 billion infrastructure funds.



FIRST NATIONS MARKET HOUSING FUND (FNMHF)

- In August, 2018, Minister of Families, Children and Social Development (FCSD), Jean-Yves Duclos's assistant, wrote to the AFN to seek AFN input into three, draft FNMHF trustee recruitment documents.
- One Federal draft document indicated "...the trustees will also be engaged and provide input and support for programming reform and the implementation of an upcoming First Nations Housing Strategy", - it was the first time the AFN became aware of that intent.
- On September 26, 2018, the AFN Chief Executive Officer wrote to the Minister Duclos' assistant indicating:
 - Disappointment on the method used to inform the AFN of the FNMHF's intention to participate in the Housing Strategy, which should have been requested through the Joint Work Group.
 - That the 2017 Policy Reform Framework and the draft Strategy under development call for research & review of financial options and review of the FNMHF leading to its transfer to First Nations control.
 - That the FNMHF review process would be First Nation-led, overseen by the CCoHI and that no CCoHI-determined research/review methodology had yet been developed.
 - That until the CCoHI had a specific methodology/plan to review the FNMHF, it was premature to meet about the FNMHF trustee recruitment or otherwise.



FIRST NATIONS MARKET HOUSING FUND

- The AFN letter's 3 substantive requests were mostly ignored:
 - Request to delete reference that FNMHF trustees are to help implement the draft Housing Strategy was **largely ignored**.
 - Request to include text that FNMHF is implementing its mandate in the context of the ongoing discussions on transformative change leading to First Nations' care, control and management of housing and related infrastructure, **was respected**.
 - Request to include text that the transfer the management and administration of the Fund from CMHC to First Nations Control as per terms of the Indenture of Trust in March 26, 2008, **was ignored**.
- One of two minor edits to clarify text was respected, the other was ignored.



CMHC ON-RESERVE PROGRAMS AND TECHNICAL SERVICE PROVIDERS

- Over the past years, CMHC has contracted one company to conduct progress and physical condition reviews for CMHC's on-reserve programs.
- AFN Resolution 28/2017 requested that CMHC restore the technical services previously provided by First Nations, Tribal Councils and First Nations Technical Service Providers.
- In October 2017, CMHC engaged with the AFN and CCOHI members to seek proposals from regional First Nations organizations to provide the required services.
- Currently, CMHC is considering proposals from regions and working with a few regions that have yet to complete missing elements, such as staff security clearances, insurance and other.
- First new arrangement expected to be in place as early as December 2018 with others soon thereafter.
- CMHC committed to communicate new arrangements to all affected First Nations.



REGIONAL FIRST NATIONS ORGANIZATIONS BEING CONSIDERED BY CMHC TO CONTRACT FOR PROFESSIONAL SERVICES

REGION	PROPONENT
British Columbia	First Nations Housing and Infrastructure Council - BC
Alberta	Technical Services Advisory Group
Saskatchewan - north	Prince Albert Grand Council
Saskatchewan – south	Saskatchewan First Nations Technical Services Cooperative
Ontario	Ontario First Nations Technical Services Corporation
Quebec	Mamuitun Tribal Council
Atlantic	North Shore Mikmaq District Council
Manitoba	Tbc (possibly West Region Tribal Council)



DEEP DIVE ON FIRST NATIONS HOUSING ON RESERVE

- On March 7, 2018, the Prime Minister requested that a Deep Dive on Indigenous Housing be undertaken with a focus on First Nations housing on-reserve regarding current service delivery issues, including home ownership.
- It will focus on current implementation, is meant to be an informal process that examines how the Government of Canada can, in the short-term, operate more effectively to support First Nations housing and complement, inform and not duplicate the ongoing, longer-term policy work that will lead to the implementation of a co-developed First Nations Housing and Related Infrastructure Strategy.
- To be conducted by 4 - 5 representatives of the Privy Council Office, ISC, including the First Nations and Inuit Health Branch/ISC and the CMHC.
- The main objectives are;
 - Strengthen understanding of the barriers and opportunities regarding the Government of Canada's approach to collaborating with and supporting First Nations in the delivery of housing as a social determinant of health.
 - Identification of common challenges and impediments to delivery, potential disincentives and highlight best practices that may be more broadly implemented across the country.
 - Examine each element of the "Delivery Chain" from a Government of Canada service delivery lens.



DEEP DIVE ON FIRST NATIONS HOUSING ON RESERVE

- Delivery chain is:
 - Prioritization and funding allocation decisions.
 - Building and renovating homes – review of the housing continuum, including under social housing, band ownership, and (private) home ownership models.
 - Operations and maintenance of the on reserve housing stock.
 - Measuring results/outcomes with respect to meeting community-housing needs on-reserve for all stages of life.
 - Delivery of skills and community capacity training (for both technical and the management of housing).
 - Monitoring housing for potential public health issues.
- The process is in 3 phases; In-Person Informal Discussions, By-Phone Informal Discussions and Reporting and Follow Up with Participants with a summary report outlining what was heard and possible solutions shared.
- The timing is: interviews, October to November 2018; summary report, October to November 2018, and report to the Prime Minister, January 2019 in a Take Stock Meeting.
- The AFN was first made aware of the initiative on October 3, 2018, at a meeting at Health Canada.
- The AFN expressed its displeasure at being informed well after the initiative was launched and its possible negative effects on progress being made by the Joint Working Group on the draft Housing and Infrastructure Strategy.
- Federal officials committed to seek the AFN's views during the process.
- Government agencies developed, without the AFN input, and shared with the AFN , a list of about 30 individuals they will interview, mostly First Nations people with some connection to housing.



First Nations Housing and related Infrastructure – Data Gathering Exercise

- Following the 2017 “*Policy Reform Framework Toward a First Nations Housing and related Infrastructure Strategy*” (the Strategy), a joint Working Group was established with representatives from the AFN, the CCoHI, ISC, CMHC and Employment and Social Development Canada.
- In addition to developing the Strategy, the AFN is leading a data gathering exercise to determine First Nations housing and related infrastructure needs on-reserve.
- This data gathering exercise will support First Nations to have their own baseline data to inform their needs and priorities.
- Having standardized and consistent data will also inform the Government of Canada on what is required to fully address First Nations housing and related infrastructure needs on-reserve.
- A Questionnaire was developed by the AFN, the Joint Working Group and the First Nations Technical Services Advisory Group (TSAG) and it includes standardized methods to ensure that the data can be rolled up into a regional report and a national report.
- TSAG’s electronic data collection tool will be used to gather the data, ensure quality assurance and integrity of the data collected and will ensure the same methods are used to collect information from each First Nation and region.



First Nations Housing and related Infrastructure – Data Gathering Exercise

- All First Nations will have the opportunity to participate in the Questionnaire.
- Participation in the questionnaire is of the utmost importance, as collecting the most up to date and relevant data will assist in identifying solutions to the state of housing and related infrastructure for First Nations.
- First Nations regional organizations will administer the questionnaire with each First Nation in their region. The data gathering exercise will commence in the winter 2018.
- The First Nations Information Governance Centre (FNIGC) will support the analysis and interpretation of the data collected, ensure the credibility of the analysis of the data collected, be responsible for data stewardship and secure storage of the data ensuring privacy and security measures are maintained.
- The OCAP® (ownership, control, access and possession) principles will apply.
- First Nations will maintain ownership of their information and only aggregate information will be used for analysis and reporting.
- If regional organizations wish to use or share the information collected, it will be their responsibility to acquire permission from First Nations.



Operations and Maintenance Policy Review and Regional Asset Management Pilot studies

- The Government has interest in carrying out a review of its Operations and Maintenance (O&M) Policy with a goal of providing 100% O&M funding for all federally funded assets.
- An O&M Technical Experts workshop was held in March 2018 .
- It was recommended that an Asset Management Plan approach would be recommended as the way forward.
- It was also recommended that pilots studies on fully costed O&M plans be carried out.
- The Pilot projects are designed to identify what the real cost to maintain and operate First Nations federally funded assets.
- A working will be established to develop a draft revised O&M Policy
- Work on the O&M Pilots is planned to start late 2018 with completion in winter 2019.
- The O&M pilot studies will carried out by Regional Technical organizations.

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Update on Current Status of *Safe Drinking Water for First Nations Act (SDWFNA)*



Current Status: SDWFNA

- Currently 'in force' but necessary 'regulations' not yet developed.
- Created and brought into force without consultation and despite extensive First Nations resistance and challenges.
- Engagements for modification of the SDWFNA by ISC began in mid-June 2017 and proceeded until September 2017 despite calls for those engagements to cease by First Nations.
- The federal government has made clear commitments to ensure First Nations have equity with non-First Nations in terms of water quality standards and equity in water access; in 2017-2018 they have now acknowledged that a First Nations-led process to deal with the current legislation is needed.



Water Resolutions 2017-2018

Four AFN resolutions were passed on safe drinking water related matters in 2017-2018 reflecting substantial results of sustained First Nations advocacy which shifted the approach of the federal government on the SDWFNA.

- 1) **Resolution 26/2017, *Safe Drinking Water for First Nations Act***, repeated the call for repeal of the SDWFNA and immediate cessation of the federal government's engagement sessions for amendment of the Act, and instead called for the federal government to develop in partnership with First Nations the next steps in engaging with the SDWFNA.



Water Resolutions 2017-2018

- 2) **Resolution 88/2017, *First Nations led Engagement Process for Safe Drinking Water Legislation***, directed the AFN to establish a joint Working Group comprised of AFN Chiefs Committee on Housing and Infrastructure and their regional technicians, federal representatives, legal counsel for AFN and the federal government, and other experts, as necessary, to co-develop a draft framework for new legislation.
- 3) **Resolution 01/2018, *First Nations Led Process to Develop New Federal Safe Drinking Water Legislation***, took this process even further and mandated the AFN to immediately communicate to the federal government that, in keeping with the Government's commitments to reconciliation with First Nations, a joint legislative co-development process and mandate will proceed in full partnership with First Nations, including the development of a Joint Working Group on Safe Drinking Water for First Nations.



Water Resolutions 2017-2018

AFN Response to Resolution 01/2018:

- Development of a Chiefs Committee on First Nations Safe Drinking Water Legislation.
- Drafting of the “First Nations Safe Drinking Water Preliminary Concepts”.
- Presentation of the “Preliminary Concepts” to the Chiefs-in-Assembly at the AGA in Vancouver in July 2018.

4) **Resolution 26/2018: *Support for a First Nations Safe Drinking Water Legislation Preliminary Concepts.***

Mandates:

- ‘Preliminary Concepts’ as a working document to support engagement.
- Directs the AFN to proceed with national engagement to develop new Safe Drinking Water Legislation.
- Directs the AFN to advocate for co-development of this legislation in a manner that affirms and ensures First Nations rights, interests, aspirations, inherent rights and laws, standards, guidelines and processes are protected.



Goals of the First Nations Safe Drinking Water Preliminary Concepts

- 1) Confirm Adequate, Predictable and Sustainable Funding for First Nations Safe Drinking Water and Wastewater Systems.
- 2) Ensure Sustainable First Nations Water and Wastewater Systems.
- 3) Protect First Nations Rights, Interests, Aspirations and Laws Regarding Water.
- 4) Create a Transparent and Consent-Based Approach to Building, Improving, and Providing Drinking Water and Wastewater Services for First Nations.
- 5) Support the Consensual Transition of Care and Control over First Nations Water Infrastructure to First Nations.



Proposed Next Steps: 2018-2020

Short Term: 3-6 Months

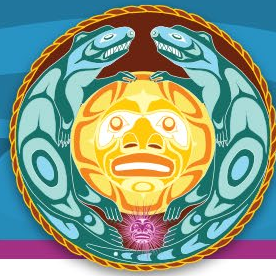
- Chiefs Committee being appointed.
- Discussion Paper on Repeal/Replacement developed.
- MC to Cabinet for repeal/replacement co-developed **but not accepted by the Prime Ministers Office (October 5, 2018).**
- National Engagement process initiated.
- Planning/hosting 2nd Water Symposium.

Long Term: 6-24 Months

- Proceeding with co-developing Draft Framework.
- Presentation of Draft Framework to Chiefs-in-Assembly.
- Submission of Draft Framework to Cabinet via another co-developed MC as a basis for Drafting Instructions. (Spring 2019).
- New Legislation passed by government.
- Upon ratification advocacy/support for Regional regulatory development to implement.

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“Monetization” Pilot Project



“Monetization”

- ISC is proceeding, with cooperation from Finance Canada, Privy Council Office, National Bank of Canada, First Nations Finance Authority (FNFA) and the First Nations Financial Management Board (FNFMB) with identifying approximately 5 First Nations who are FNFA members to pilot a financial instrument that will “monetize” promised multi-year federal funding for First Nations infrastructure.
- It appears that ISC has already identified at least some of these First Nations and is seeking to create proof of concept for “monetization” via this pilot project, to be initiated immediately.
- ISC envisions multiple ‘waves’/phases of this pilot project.
- This will be the first time ‘monetization’ has been done with federal funding.



Current Status of Monetization Pilot Project

- “Monetization” is a project conceptualized as part of First Nations’ Infrastructure Institution (FNII) business/growth plan.
- The AFN’s first invitation to a meeting on the issue was April 4, 2018. The CEO mandated the CCoHI review in August 2018.
- ISC-led and continued to advance the file and now have support for the concept from senior management.
- Currently seeking a long-term source of funds that will enable launch of the pilot project next fiscal year with a few willing First Nations who are already borrowing members of the FNFA.
- ISC has not yet selected any First Nations to participate in the pilot project, nor will the AFN, until there is a confirmed source of funds.
- Have committed to “let the AFN know if / when we receive funding for the pilot, which will likely be sometime in March 2019.”

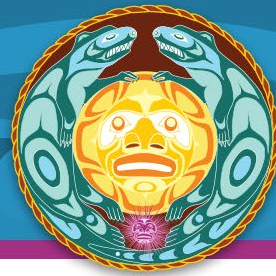


Monetization Issues and Concerns

- Currently there are 75 First Nations members of the FNFA, all of whom are certified by the FNFMB, of which 45 have monetized their revenue streams to borrow approximately \$474 million since 2006. Another 239 First Nations are “Scheduled and Pending” for full membership. Because Government Ministries indicated a need for this pilot project to be successful and because the FNFA members have sophisticated financial management requirements, there is a potential issue for this monetization process to:
 1. **Expand the gap between ‘have’ and ‘have-not’ First Nations.**
 2. **Rapidly and significantly expand the amount of low-interest capital available to FNFA members to accomplish infrastructure (and potentially other) projects.**
 3. **Expand the financial tools available to First Nations and the federal government for infrastructure investment.**
 4. **Reduce or remove the paternalism and oversight of the federal government for monies transferred to First Nations.**
 5. **Create a mechanism for the federal government to offload to First Nations massive infrastructure investment costs.**

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