

IMPROVING ACCESS TO CAPITAL FOR INDIGENOUS GROUPS TO PURCHASE EQUITY STAKES IN MAJOR RESOURCE PROJECTS

Reviewing existing approaches to inform
a National Benefits-Sharing Framework

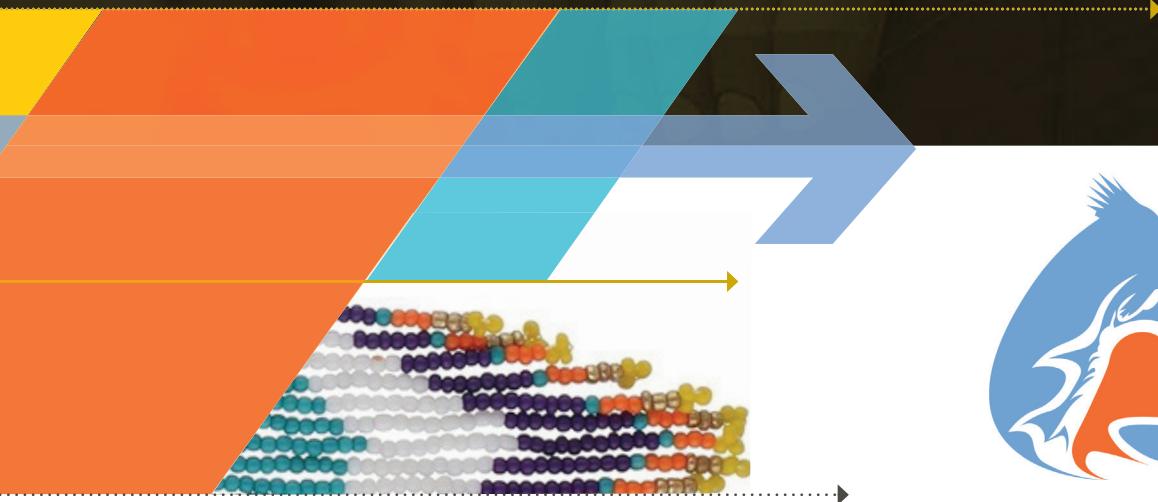


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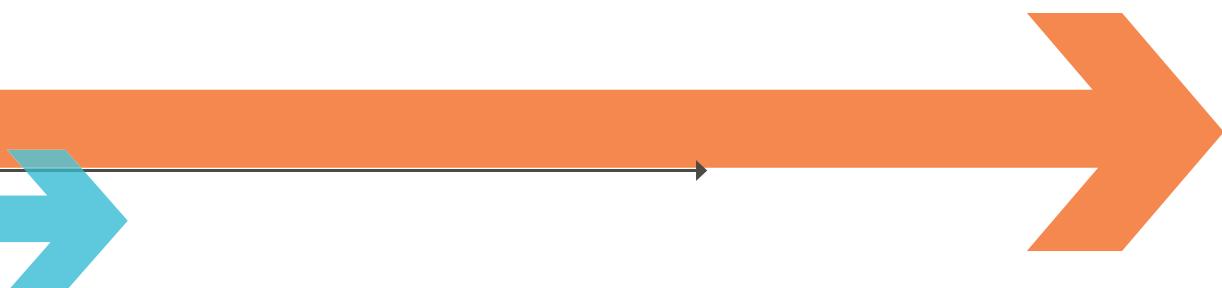
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FORWARD

The early beginnings of what became the First Nations Major Projects Coalition (FNMPC) were driven by the desire of First Nations leadership to have access to competitive capital to enable their communities to become equity partners in the resource developments being proposed for their traditional territories. In 2015, the FNMPC was established by 11 First Nations in northern BC who recognized the need for their communities to receive independent business advice so that informed decisions could be made about their participation as partners in major natural resource and infrastructure projects.

Today, the FNMPC has expanded its footprint to over 70 First Nations in six provinces and territories. FNMPC's support services have been engaged by its members in 5 different projects ranging from electricity transmission and generation to liquified natural gas pipelines. The combined total capital cost of projects FNMPC is engaged in exceeds \$7 billion.

FNMPC has helped structure First Nation participation in these projects by assisting members in creating corporate entities (special purpose vehicles) in which the communities engage project proponents on the terms under which equity partnerships can be formed. FNMPC supports these efforts by providing capacity, coordination, and technical support to the business negotiations and considerations. The FNMPC model is unique, effective, and is an honest broker of business information to its members. FNMPC services are filling a critical gap that is historically underserviced as this type of support is expensive and hard to maintain by individual First Nations. FNMPC is a services of aggregation model that is provided free of charge to its members.

While FNMPC's services have been successful at meeting the front-end support needed by First Nations to properly assess and inform on a major project opportunity, back-end support such as credit enhancements and access to competitive capital continue to present barriers to mainstream First Nation participation in Canada's economy.

Since its establishment, FNMPC has taken an active approach to addressing the need for the federal and provincial governments and project proponents to do more to support the creation of better and more meaningful equity partnerships with First Nation communities.

In 2019, FNMPC put its tools and support to the test on a real-time commercial equity opportunity at the request of 12 of its members. From the ground up FNMPC supported the First Nation's abilities to form a commercial entity, submit an indicative terms bid, enter a bidding consortium with 2 other Institutional investors, and conduct commercial market soundings all in a matter of 5 months. This exercise resulted in a significant opportunity cost for the First Nation consortium as they were forced to forfeit their equity interest late in the process due to an uncompetitive cost of capital. This result however unfortunate, validated FNMPC's assumptions that the capital markets remain a challenging place for First Nations to raise a competitive cost of capital without credit enhancements from governments or 3rd parties.

If we do not embrace innovations to affordable capital access for Indigenous communities, the opportunity costs to Indigenous communities and the country as a whole will only continue to increase.

These innovations are not only required so Indigenous groups can participate meaningfully in the wealth that is being generated from their traditional territories, there is a need to also create certainty in the investment market and protect the national economy from the risk of capital flight and capital avoidance.

The way in which the World invests is changing. Sustainable investing with a focus on ESG standards is rising. Investors want to know what the socio-economic impacts of their investment will be on Indigenous and non-indigenous populations before a decision to invest is made. Equity partnerships with Indigenous communities can be a vehicle that enables both meaningful benefits and participation for Indigenous communities and certainty and credit risk-reduction for the investor and project proponent.

While this paper explores a number of different innovations that are designed to support Indigenous access to competitive capital, Canada is without a national strategy on this critical issue impacting Indigenous groups across the country. Canada's vision of opportunity and prosperity for all will only be achieved when Indigenous peoples are included as full and active participants in the national economy.

Niilo Edwards

Executive Director, *First Nations Major Projects Coalition*

March 2021



EXECUTIVE SUMMARY

Indigenous groups have demonstrated a willingness to participate in major resource projects proposed for their territories on certain terms. First and foremost, groups have said projects should respect the territory – they should be operated sustainably. Groups have also expressed an interest in meaningful economic participation in exchange for the resources that are being extracted. Participation should create employment opportunities and generate revenue for First Nation governments to close the infrastructure gap.

Although there has been limited success to date, innovative approaches are starting to yield results. If some of these innovative approaches are adapted to work for more Indigenous groups and more projects, then multiple objectives could be achieved including: implementing the United Nations Declaration on the Rights of Indigenous People (UNDRIP); and, supporting responsible resource development as part of an economic recovery strategy to respond to the economic downturn caused by COVID-19. The table below identifies approaches that have been developed for Indigenous participation in projects.

Table 1 - Some innovative approaches to financing Indigenous participation in projects

NAME	DESCRIPTION
Alberta Indigenous Opportunities Fund	<ul style="list-style-type: none">• \$1 billion loan guarantee fund provides loan guarantees from \$20-250 million for energy, mining or forestry projects.• Recent guarantee of loan for six (6) First Nations to acquire equity stake in \$1.5 billion power plan project
Ontario Aboriginal Loan Guarantee Program	<ul style="list-style-type: none">• Loan guarantees for Indigenous groups to invest in transmission, wind, solar, and hydroelectric projects. Program parameters contemplate loan guarantees from \$5-50 million (exemptions have been made).• Program has provided guarantees to ten (10) projects, some of which include multiple Indigenous groups.
First Nations Finance Authority	<ul style="list-style-type: none">• First Nation-led institute established by <i>First Nations Fiscal Management Act</i> has raised over \$1.3 billion for borrowing members through debentures• Recent loan of \$250 million to seven (7) Mi-kmaq First Nations for purchase of offshore fishing licences.
Canada Infrastructure Bank	<ul style="list-style-type: none">• Recently announced program for \$1 billion towards Indigenous infrastructure projects.

The acquisition of equity does not place additional cost burdens on the project and provides an opportunity for shareholder or board representation. The disadvantage of the equity approach is that an investment is required to purchase equity.

Learnings from innovative approaches to access to capital

This research paper explored some examples of projects that used innovative approaches for Indigenous groups to access capital so that they could acquire equity in a project. Some of the learnings from these experiences are described below.

- Not all First Nations may be interested in equity on all projects. But many First Nations are expressing an interest in the opportunity for more influence as an owner, and the ability to participate in profits if risks can be adequately managed.
- If Indigenous groups decide to pursue equity, rigorous due diligence is required to analyze and manage project risks related to both construction and demand. For example, is the project going to be built on time and on budget, is the project going to work effectively once it is completed, and will the project produce a product that can be sold over a period of time to earn a profit.
- If these risks can be managed, then the project may be commercially viable which means that: (a) there is a reduced risk that the loan guarantee is called upon; and, (b) there is reduced risk to Indigenous groups that may be using profits from the project to further leverage investments in infrastructure in their communities.
- The need for long-term predictability regarding demand may mean that certain sectors are more suitable for these types of arrangements than others.
- Presenting options widely as models is a valuable undertaking because even if the model is not used for one project it may be valuable for another. Examples of models and capacity support include:
 - » Forming a single entity for participation in a project,
 - » Approach to due diligence in specific sectors,
 - » Models for meaningful engagement, and
 - » Participation in ongoing project governance to have influence in the operation of the project.
- The ability for Indigenous groups to share in profits of a project depends on the cost of capital. Benefits to groups can be delayed and/or diminished if a loan guarantee does not provide full coverage.
- If a project is de-risked, then investors wanting to participate in the project will be very competitive and will likely squeeze out the opportunity for Indigenous groups to participate or reduce the benefits to the Indigenous groups of participating. This means it may be useful to create incentives for private sector proponents to include Indigenous participation through regulatory processes or via economic incentives. The emergence of ESG investing could play a crucial role in encouraging the private sector to prioritize Indigenous participation and responsible resource development.
- If equity participation is included as a key term in an Impact Benefit Agreement (IBA), it could play a role in securing an equity loan.
- A loan guarantee may not be required for the entire lifecycle of the project. There is evidence of projects where a loan guarantee is provided before construction, after construction, for the lifecycle of an asset, and for the duration of a power purchase agreement. In addition, there is evidence of an approach that considers a loan guarantee for the construction period and then sees the project revenues replace the loan guarantee.

- The analysis shows that projects that use loan guarantees are subjected to considerable due diligence by the guarantor since the guarantee will show as a contingent liability on the guarantor's financial statements. But if use of a loan guarantee has a fee associated with it and then the project proceeds, the economic impacts can be considerable. This includes royalties and taxes to governments and income to firms and people.

Considerations for a National Benefit Sharing Framework

If some of these approaches can be adapted to work for more Indigenous groups and for more projects to move ahead in a responsible way, then Indigenous participation in major resource projects could be a way to implement some aspects of FPIC and UNDRIP. Indigenous participation in major resource projects supports a pandemic economic recovery strategy that would support economic growth for all Canadians including benefits for local, regional and provincial governments. In addition, such a strategy would generate long term predictable revenue streams that indigenous groups could use to secure financing for local community infrastructure projects which would support closing the Indigenous infrastructure gap.

The evidence in this paper has demonstrated the need for due diligence and capacity support for participating Indigenous groups in order to effectively structure a deal so that access to capital is possible at competitive prices. An organization like the FNMPC could play an important role in providing such services.

INTRODUCTION

Indigenous groups have demonstrated a willingness to participate in major resource projects proposed for their territories on certain terms. First and foremost, groups have said projects should respect the territory – they should be operated sustainably. Groups have also expressed an interest in meaningful economic participation in exchange for the resources that are being extracted from the territories. Participation should create employment opportunities and generate revenue for First Nation governments to close the infrastructure gap.

Canada's intention to introduce legislation to implement UNDRIP would seem to support these interests. A principle of free, prior and informed consent appears to lend itself to responsible resource development with participation of Indigenous groups.

There has been limited success to date. The good news is that innovative approaches are starting to yield results. Could some of these innovative approaches be adapted to work for more Indigenous groups and for more projects to move ahead in a responsible way? If so, then the Federal Government could achieve multiple objectives including implementing UNDRIP and supporting responsible resource development as part of an economic recovery strategy to respond to the economic downturn caused by COVID-19.

Purpose

This paper furthers the work of the First Nations Major Projects Coalition (FNMPC) to identify credible solutions that address the historical barriers faced by Indigenous groups in accessing affordable capital needed to become equity owners in major resource projects. This paper comes at a time when the federal government is considering an approach to a national benefits-sharing framework. This paper will provide evidence of government interventions and support mechanisms that have yielded clear benefits to indigenous communities, using repeatable approaches.

The paper will conduct a comparative analysis of the programs that currently exist and identify some of the gaps with those programs. The analysis will identify what components would be necessary to create a successful national benefit sharing framework. The research will illustrate some fiscal and economic implications of implementing UNDRIP (including fiscal articles and indigenous access to capital) and the opportunity cost of not having a national program.

This paper has been developed by the FNMPC, a First Nation-led, national not-for-profit organization which provides tools, advice, and guidance to help foster Indigenous economic participation in major projects and provides valuable capacity support during the project development phase at no cost to its members. This capacity support is otherwise very expensive and either unaffordable or unavailable to many communities. The FNMPC hopes that this paper will prompt the government to take action and improve the relationships with indigenous communities through renewed interest in indigenous economic wellbeing.

BACKGROUND

Some federal programs exist to encourage participation of indigenous communities and organizations in projects. For example, the Indigenous Natural Resource Partnerships program is a two-year initiative to increase the participation of indigenous communities in oil and gas infrastructure projects in BC and/or Alberta. Programs such as this could be expanded to other parts of the country or adapted to support projects that cross boundaries. There have been recommendations in different stakeholder reports to improve access to capital for Indigenous groups to acquire equity in projects. Some recommendations are summarized in the table below.

Table 2 - Recommendations from Stakeholder Reports

YEAR	NAME	NOTES
2012	National Aboriginal Economic Development Board	<p>Aboriginal equity ownership is key: Ownership provides Aboriginal groups with a voice in decision-making, aligns interests with project partners, increases self-reliance and ensures that we share in the benefits and risks of resource development activities on our lands. Equity participation also provides spin-off benefits in communities, including revenues to improve housing, social services and the local economy.</p> <p>Recommendation 1.2 - It is recommended that the Government of Canada, in collaboration with provincial and territorial governments, industry stakeholders and Aboriginal organizations, develop a loan guarantee instrument or other financing measures to facilitate equity participation for Aboriginal communities in natural resources projects.</p>
2013	First Nations Financial Management Board	<p>Research conducted on illustrative natural gas project including gas plant, pipeline and LNG terminal. Considers of a group of Nations acquiring an equity stake in related infrastructure in the context of the economic impacts of the value chain. Use of loan guarantee considered for participating First Nations to acquire equity stake.</p>
2015	AFN Working Group on Natural Resource Development	<p>Explore further options for addressing capital needs, including: bond markets, government loan guarantee, national and regional fund, First Nations sovereign investment fund and/or income trust, National First Nations Pension Fund, public-private partnerships, and infrastructure funds</p>
2017	AFN National Chief Bulletin	<p>Access to capital is a major issue for First Nations – raised the potential for federal loan guarantees, government-backed bonds</p> <p>Access to capital – for example – equity ownership, government backing for bonds to back investments in First Nations ventures; government guaranteed loans.”</p>
2018	Report on Canada's Economic Strategy Tables	<p>Leverage fiscal tools available to support equity partnerships with Indigenous businesses.</p>

Federal Government Mandate Letters

In December 2019, the Prime Minister wrote Mandate letters to Federal Ministers which included a reference a National Benefit Sharing Framework and an improved fiscal relationship. The table below includes some excerpts from these mandate letters.

Table 3 - Excerpts from Federal Minister Mandate Letters

MINISTRY	MANDATE LETTERS – DECEMBER 13, 2019
Natural Resources Canada	<ul style="list-style-type: none"><i>Work with the Minister of Crown-Indigenous Relations and the Minister of Finance to develop a new national benefits-sharing framework for major resource projects on Indigenous territory.¹</i>
Crown Indigenous Relations	<ul style="list-style-type: none"><i>Work with the Minister of Finance and the Minister of Natural Resources to develop a new national benefits-sharing framework for major resource projects on Indigenous territory.²</i>
Finance	<ul style="list-style-type: none"><i>Support the Minister of Crown-Indigenous Relations and the Minister of Indigenous Services in developing a new fiscal relationship with Indigenous Peoples.³</i>

Establishing a national benefit sharing framework is consistent with the desire to implement UNDRIP and create a mechanism for free prior and informed consent.

¹ <https://pm.gc.ca/en/mandate-letters/2019/12/13/minister-natural-resources-mandate-letter>

² <https://pm.gc.ca/en/mandate-letters/2019/12/13/minister-crown-indigenous-relations-mandate-letter>

³ <https://pm.gc.ca/en/mandate-letters/2019/12/13/minister-finance-mandate-letter>

Throne Speech

On September 23, 2020, the Throne Speech had a number of references to Indigenous people including capacity-building and moving forward on UNDRIP legislation.

The Government will walk the shared path of reconciliation with Indigenous Peoples, and remain focused on implementing the commitments made in 2019. However, the pandemic has shown that we need to keep moving forward even faster on a number of fronts including by:

Expediting work to co-develop distinctions-based Indigenous health legislation with First Nations, Inuit, and the Métis Nation, and a distinctions-based mental health and wellness strategy;

Accelerating work on the National Action Plan in response to the National Inquiry into Missing and Murdered Indigenous Women and Girls' Calls for Justice, as well as implementation of the Truth and Reconciliation Commission's Calls to Action;

And continuing to close the infrastructure gap in Indigenous communities, working on a distinctions-basis with First Nations, Inuit, and the Métis Nation to accelerate the government's 10-year commitment.

The Government will also:

Make additional resiliency investments to meet the clean drinking water commitment in First Nations communities;

And support additional capacity-building for First Nations, Inuit, and the Métis Nation.

The Government will move forward to introduce legislation to implement the United Nations Declaration on the Rights of Indigenous Peoples before the end of this year.⁴

⁴ <https://www.canada.ca/en/privy-council/campaigns/speech-throne/2020/stronger-resilient-canada.html>

Canada to introduce UNDRIP legislation

On December 3rd, 2020, the federal government announced it would introduce legislation to recognize UNDRIP.

- If passed, the bill would require the federal government to ensure that the laws of Canada are consistent with the declaration's 46 articles.
- The bill also would require the federal government to prepare an action plan within three years of the bill's passage to achieve the declaration's objectives, and to table an annual report detailing progress made.⁵

WHAT IS UNDRIP?

The United Nations Declaration on the Rights of Indigenous Peoples was adopted in 2007.⁶ Although Canada initially voted against the Declaration, its position has since changed. An objective of the Declaration is to protect Indigenous peoples worldwide. Key components of UNDRIP are statements about Free Prior and Informed Consent (FPIC).

Article 32

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

⁵ “Liberals introduce bill to implement UN Indigenous rights declaration”, Ryan Patrick Jones, CBC News, December 3, 2020.

⁶ <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

WHAT IS FREE, PRIOR AND INFORMED CONSENT?

A report on UNDRIP was conducted by FNMP in 2017 to address the following questions:

- What is the United Nations Declaration on the Rights of Indigenous Peoples?
- What is “free, prior and informed consent”?
 - » FPIC is not absolute
 - » FPIC is a principle, not a power
 - » FPIC is based on self-determination
- What does implementing FPIC look like?
 - » A mutually agreed-upon consultation process
 - » Sharing more information sooner
 - » Moving beyond legal obligations to focus on best interests
 - » Improving existing mechanisms for Indigenous Participation

“It is clear that existing mechanisms for Indigenous participation contain elements of FPIC, but more work is needed to develop decision-making processes that are truly shared between federal and provincial governments and Indigenous communities.

Implementing FPIC requires governments to commit to treating Indigenous communities as equal partners and striving to say yes or no together.”⁷

A Moody’s Investors Service research note reflects on the impact of projects that are unable to work with Indigenous groups to achieve FPIC and are unable to obtain or maintain social license. The conclusion is the absence of social license can be credit negative for corporations.⁸

Since this report the FNMP has continued to grow in terms of membership, the number of tools it has developed, and the number of projects it is supporting. This is because the work of the FNMP supports some of the issues described above including sharing information and improving mechanisms for participation.

⁷ “*Implications of UNDRIP on Major Project Development*” Aaron Bruce, Ratcliff & Company Lawyers, Presented to the First Nations Major Projects Coalition in Terrace, BC on November 1-2, 2017.

⁸ “*Indigenous Rights are growing increasingly important for Canadian project execution and corporate activities.*” Moody’s Investors Service, June 22, 2020.

First Nations Major Projects Coalition – Implementing UNDRIP

The FNMPG provides technical support for First Nations that are responding to proposed projects in their territories and are trying to work through a process towards free, prior and informed consent. The FNMPG provides capacity support services to indigenous groups understanding that a strong economy is reliant upon a healthy environment supported by vibrant cultures, languages and expressions of traditional laws, and in particular to:

- (a) Safeguard our air, land, water and medicine sources from the impacts of resource development by asserting its members' influence and traditional laws on environmental, regulatory and negotiation processes;
- (b) Ensure its members receive a fair share of benefits from projects undertaken in their traditional territories; and
- (c) Explore ownership opportunities of projects proposed in the traditional territories of its members.

To date, over seventy (70) First Nations have formalized their participation in the Coalition. This includes groups from British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and the Northwest Territories. The Coalition has developed practical tools for First Nations to use. This includes tools for participation in an environmental assessment process. The “Guide to effective Indigenous Involvement in Federal Impact Assessment” has been developed to support Nations that may be facing consultation requests for a major resource project proposed for their territory. The “Ownership Model Handbook” was developed by the Coalition to support members that may be considering how to approach negotiations for equity, business structuring and financing.

These tools support capacity building for First Nations to better participate in major resource project development processes. In addition, the Coalition is providing capacity support services to groups of First Nations that are in active discussions for: a hydroelectric project, a geothermal electricity project, a natural gas pipeline, and two transmission line projects.

The Coalition is a group of First Nations that are seeking ways to implement UNDRIP. They are working together to develop tools so that they can participate in major resource projects. But their experience demonstrates that access to capital continues to be a challenge in acquiring equity. The Coalition has been following and engaging with emerging initiatives that are attempting to address this challenge including the First Nations Finance Authority, the Canada Infrastructure Bank, the Alberta Indigenous Opportunities Fund and the Ontario Aboriginal Loan Guarantee Program. These initiatives will be analyzed in this paper.

INDIGENOUS EQUITY PARTICIPATION

Equity participation has emerged more frequently as an option for participation during the last decade. This is reflected in credit rating agency research and analysis. In August 2017, Moody's Investors Service produced a research note that suggested that large infrastructure projects in Canada had additional credit considerations:

- Indigenous involvement in Canadian infrastructure projects is increasing
- Economic development needs, an evolving legal framework, large infrastructure needs, and population growth drive increased indigenous involvement
- With larger projects and equity stakes, funding of equity will be a bottleneck for many indigenous investors
- The development of debt solutions acceptable to the market will vary case by case⁹

Canadian governments and corporations are increasingly focusing on obtaining and maintaining social license from Indigenous communities, Moody's Investors Service says in a new report. The increased focus comes as recent events highlight the effect that conflict with Indigenous people over social license can have on credit quality.

Failure to maintain social license can lead to a delay in a project's construction or even its cancellation; a loss of permit, right of way or operating license; blockades; litigation and boycotts. These events can lead to lost revenue, increased costs, or a balance sheet write-off, all credit negatives for the applicable corporation.

"In Canada, many resource related activities take place in areas where Indigenous population can represent a material proportion of total population and where aboriginal or treaty rights may exist," said Catherine Deluz, a Moody's Senior Vice President. "These market developments, coupled with increased advocacy and legislative developments, have led to the increased focus on Indigenous rights we're seeing."¹⁰

⁹ "Indigenous involvement in large infrastructure projects is set to grow." Moody's Investors Service, August 24, 2017.

¹⁰ "Indigenous Rights are growing increasingly important for Canadian project execution and corporate activities." Moody's Investors Service, June 22, 2020.

Why Equity?

Not all First Nations may be interested in equity on all projects. But many First Nations are expressing an interest in the opportunity for more influence as an owner, and the ability to participate in profits if risks can be adequately managed. The table below describes some options for participation¹¹:

Table 4 - Options for Participation

NAME	DESCRIPTION	COMMENTS
Equity	Ownership in part of the company or project. This interest is usually held in the form of shares. Payments are made from the net profit or share dividends according to the percentage of ownership. Ownership can be given or purchased.	<ul style="list-style-type: none">• An equity stake that is 'given' is a cost burden on the project• An equity stake that is purchased would not be a cost burden, but would reduce the proponent's capital investment• Would provide for board or shareholder representation
Revenue sharing	An interest in the revenue from the sale of the product. This approach could be used on reserve lands where the province lacks jurisdiction to impose a royalty, the First Nation could fill the gap.	<ul style="list-style-type: none">• Any revenue sharing component over and above the provincial royalty regime would be a cost burden on the project.• Less risk/complication than equity ownership.• Unlikely to provide for any board or shareholder representation.
Profit sharing	Usually involves the application of a set percentage of net profits of the project.	<ul style="list-style-type: none">• There are precedents for profit sharing in impact benefit sharing agreements. Any profit sharing would be a cost burden on the project.• Less risk than purchasing equity.• Unlikely to provide board or shareholder representation.
Fixed payment	A predetermined amount that does not fluctuate. Could be received upfront, annually or at some other regular interval.	<ul style="list-style-type: none">• Any fixed payment would be a cost burden on the project.• Less risk than equity, revenue and profit sharing.• Unlikely to provide for any board or shareholder representation.

¹¹ Adapted from "Opportunities for First Nations in Proposed Liquified Natural gas Projects in British Columbia", First Nations Financial Management Board, October 2013.

Evaluating which approach best meets First Nation interests could consider the following questions:

- Does the approach provide meaningful economic participation?
 - » Long-term predictable revenue stream to support investments in community infrastructure (i.e. water, wastewater, roads, connectivity, health, education)
 - » Employment opportunities
 - » Training and capacity building
- Does the approach provide input into aspects of the project?
 - » Environmental assessment
 - » Ongoing environmental monitoring

The acquisition of equity does not place additional cost burdens on the project and provides an opportunity for shareholder or board representation. The disadvantage of the equity approach is that an investment is required to purchase equity.

The following sections review a number of approaches that attempt to address the challenge of purchasing equity. The Alberta Indigenous Opportunities Corporation, the Ontario Finance Authority's Aboriginal Loan Guarantee Program, the First Nations Finance Authority and the Canada Infrastructure Bank have used different approaches to improve access to capital for Indigenous groups that are interested in acquiring equity in certain projects.

Alberta Indigenous Opportunities Corporation

The Alberta Provincial Government established the Alberta Indigenous Opportunities Corporation (AIOC) in 2019. The purpose of the initiative is to provide access to capital for Indigenous groups to acquire equity interests in energy, mining or forestry projects in Alberta. The AIOC enjoys unanimous political support and has recently arranged a financing for a cogeneration plant where six First Nations acquired an equity stake.

The program is designed for the Provincial Government to provide loan guarantees for \$20-250 million dollars. These guarantees would be shown as a contingent liability in the Provincial Government financial statements. Although the program references an upper limit of \$1 billion in loan guarantees, the Provincial Government has indicated a willingness to exceed that upper limit.

If a proposed project crosses a provincial boundary or includes indigenous groups from other parts of Canada, at least a quarter of the capital value of the project must be attributed to Alberta Indigenous groups – First Nations identified by the *Indian Act* and Metis Settlements.

All projects must be commercially viable which: (a) reduces the risk that the loan guarantee is called upon; and, (b) reduces risks to Indigenous groups especially if they are using profits from the project to further leverage investments in infrastructure in their communities. The AIOC conducts due diligence and has a Chief Investment Officer with extensive experience in the energy sector. If there are projects in other sectors the AIOC will seek external advice appropriate for the project to conduct due diligence.

The AIOC also supports Indigenous groups with support to conduct due diligence. The annual budget for the AIOC is about \$12 million and half of that is made available for groups to conduct due diligence such as legal, financial, modelling, and structures for projects.

The opportunity to acquire equity means that communities have a chance to be at the project governance table. But communities may not have capacity at present to participate in this way. For that reason, support is also available for individuals to take director training such as the Institute of Corporate Directors program at the Rotman School at the University of Toronto.

CALGARY, Alberta, Sept. 09, 2020

(GLOBE NEWSWIRE) -- The Alberta Indigenous Opportunities Corporation (AIOC) is pleased to announce that as its first commitment it has provided a loan guarantee to a consortium of six Alberta First Nations to enable their participation in the Cascade Power Project (Cascade). Cascade is a 900MW combined cycle natural gas fired power plant located near Edson, AB. The transaction is a culmination of intensive efforts by multiple parties including Kineticor Resource Corp., OPTrust and Backwoods Energy Services (Backwoods), which is owned by the Alexis Nakota Sioux Nation.

The First Nations will invest through a holding vehicle owned by Alexis Nakota Sioux Nation, Enoch Cree Nation, Kehewin Cree Nation, O'Chiese First Nation, Paul First Nation and Whitefish Lake First Nation.

“We are pleased to have supported this transaction in the Cascade Power Project, that provides significant benefit to the six First Nation investors. This investment is based on commercial terms and has met all other AIOC criteria. This is a momentous deal and I’m proud for this to be the first project approved by the AIOC. I want to especially thank the Alexis Nakota Sioux Nation and their team at Backwoods for their hard work to design and structure this meaningful transaction that will bring lasting prosperity to Indigenous communities in Alberta.”

- Alicia DuBois, CEO,
Alberta Indigenous Opportunities Corporation

Cascade is a project developed and operated by Kineticor Resource Corp. that when completed in 2023 will supply eight per cent of Alberta's electricity needs.

<https://www.globenewswire.com/news-release/2020/09/09/2091232/0/en/Alberta-Indigenous-Opportunities-Corporation-Announces-First-Participation-in-Cascade-Power-Project.html>

There is an assumption that the loan guarantee will be used in a situation where a Nation is working with an industry partner. But there could be scenario where Nations want to take the lead and conduct feasibility studies and then seek partners through a competitive process. This could be possible but AIOC criteria would still be used to determine eligibility

The first project is called the Cascade Power Project. This is a cogeneration Plant that is helping to move Alberta away from coal. There are six (6) Nations involved in the project in which the Ontario Pension (OP) Trust has invested. Other investors demonstrated an interest to participate. The project was well vetted by the market and the loan guarantee supports Indigenous participation.

There was discussion about the potential of using other financial tools like swaps and derivatives to achieve lowest possible cost of capital. Although not used in this case, there may be potential in future if groups become familiar with these more complex financing tools.

In this example, the project proponent wanted to have Indigenous partners and had already gone through a regulatory process. Two Nations said they would like to be partners and brought the concept forward to the AIOC. At first the construction risk raised some concerns, so the suggestion was to 'de-risk' the project. Nations provided direction to their technical team to work with the proponents to address the concern around construction risk. Once that risk was addressed, the two Nations discussed the opportunity with their neighbours and an additional four Nations came on board.

Ontario Finance Authority's Aboriginal Loan Guarantee Program

The Aboriginal Loan Guarantee Program, established by the Ontario Provincial Government, was announced in its 2009 budget, under which a corporation wholly owned by an Aboriginal community can apply for a Provincial guarantee for a loan to purchase up to 75% of equity in an eligible project. Eligible projects include transmission and renewable energy projects.

The program is available for First Nation and Metis communities through an application process. The Ontario Financing Authority administers the program which includes leading the required due diligence and seeking program approvals on a case-by-case basis.

The program supports indigenous participation in renewable infrastructure development by facilitating access to capital and access to affordable capital. Some communities that have used the program have moved to a position where they no longer need the guarantee because they have demonstrated through their experience that they are credit worthy.

There have been ten (10) projects that have used the program, some of which include the participation of multiple Nations. Although the program parameters contemplate loan guarantees from \$5-50 million, exemptions can be sought on a case-by-case basis. The program is better suited to projects with a capital cost in excess of \$10 million because of due diligence costs. There is flexibility on the term of the guarantee to align with lifecycle of assets and / or power purchase agreement terms. Since the loan guarantee only covers 75% of the equity the First Nations have to find a way to borrow the remaining 25% which can create cost burdens that can delay cashflow from the project to the First Nation.

Program implementation and administration includes rigorous financial due diligence, and, to-date, the Province has not recorded any bad debt provisions, or had a call on a loan guarantee, under the program. Some guarantees are provided post-construction, and some are provided pre-construction. Since the projects are in a regulated electricity sector, there tends to be more predictability— power purchase agreements create certainty about the revenue that can be generated. The risks then lie in the ability to complete the project on budget and the technical performance of a facility. Sensitivity analysis in due diligence can identify the need for the establishment of debt service reserves to account for poor performing years.

First Nations Finance Authority

The First Nation Finance Authority (FNFA) is a First Nation-led institute established by the First Nations Fiscal Management Act (FMA) in 2005. The FNFA has raised over \$1.3 billion for its borrowing members.

“Working with Indigenous communities, we are beginning to see real results in addressing the huge infrastructure gap between First Nations and the rest of Canada,” said Ernie Daniels, President and CEO of the First Nations Finance Authority (FNFA). “The projects we are financing are helping to bring fresh water, better health care, green energy projects and modern infrastructure to First Nations that have created jobs and are building the Indigenous economy.”

For Nations to be approved for a loan, they first develop financial management systems that meet standards of the First Nations Financial Management Board (FMB).¹² This requirement is intended to strengthen the credit of the borrowing members. Once the Nation has a certificate from the FMB they can be accepted by the FNFA as a borrowing member. Loan amounts are based on borrowing room calculations which consider existing revenues.¹³ The FNFA compiles loan requests and then issues a debenture through capital markets. The strong financial management requirements coupled with pooled borrowing results in favourable borrowing terms for members. The most recent debenture achieved a rate about nine (9) basis points above the Ontario Provincial Government borrowing rate.

LARGEST DEBENTURE EVER BY FIRST NATIONS FINANCE AUTHORITY WILL HELP FINANCE LANDMARK CLEARWATER DEAL AND OTHER CRITICAL PROJECTS

\$350 million-dollar FNFA debenture covers 22 First Nations Westbank, British Columbia (January 14, 2021) The largest debenture ever issued by the First Nations Finance Authority (FNFA) will help seal the landmark Clearwater Seafoods deal and finance a host of other projects that will change lives in Indigenous communities.

The \$350 million debenture is the eighth by the FNFA issued on international financial markets. Since its inception, the debentures have allowed the FNFA to provide over one billion dollars in loans to finance initiatives that build the Indigenous economy even amid a crippling pandemic.

“More and more First Nations throughout Canada are turning to the FNFA to finance loans that will help improve the quality of life in their communities,” said Ernie Daniels, President and CEO of the FNFA. “There is a huge infrastructure gap between First Nations and the rest of Canada. We have an opportunity to work with the financial markets and Governments to close that gap now.”

Among other initiatives, a portion of this debenture will fund a \$250 million loan to the Mi’kmaq First Nations for the purchase of the offshore fishing licenses as part of the \$1 billion purchase of Clearwater Seafoods. These licenses are leased to Clearwater under contract. The Mi’kmaq community’s equity share was financed by Premium Brands (the other equity owner).

https://www.fnfa.ca/wp-content/uploads/2021/01/2021-14-01_-_FNFA_PressRelease_debenture_ENG.pdf

¹² For more information about FMB standards and the certification process see www.fnfmb.com

¹³ FNFA provides a borrowing room calculator for different revenue streams at <https://www.fnfa.ca/en/calculators/>

FNMP proposes revolving loan fund

In June 2020, the FNMP proposed the concept of a revolving loan facility to the BC Provincial Government that would leverage the existing abilities of the FNFA. The creation of a revolving loan facility by the BC Government for First Nations who are (or are in the process of becoming) borrowing members of FNFA could increase First Nations access to capital. FNFA is in a position to provide loans during the construction period of the project (typically 3 to 5 years).

Once the project is operational and provides a return, the project revenues would replace the original security on the FNFA loan, freeing up whatever revenue stream the First Nation originally pledged. In the case of funds borrowed from the revolving loan facility, once the project generates revenues, the First Nation would pay back the principal and interest to the provincial government. The interest charged could be capitalized and payable at the time of repayment, which would help to grow the fund over time and increase the lending limit of the revolving loan facility for future uses.

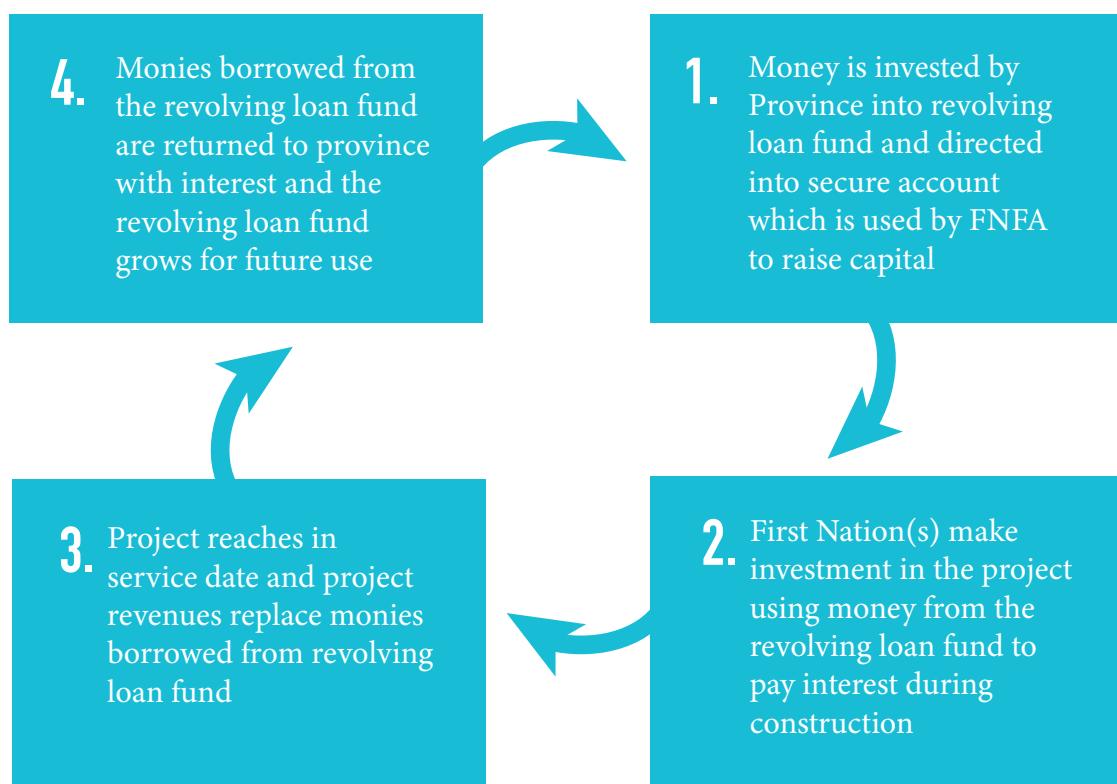


Figure 1 - Revolving Loan Fund

Instead of using existing project revenues, the participating First Nations would rely on a 'Revolving Loan Facility' as a construction period bridge loan to pledge towards an FNFA loan. During the construction period the FNFA may require interest payments, which would be paid by the revolving loan fund. This approach has not been used for a project yet but may be worth further consideration. The concept of FNMP's revolving loan facility received endorsement from the Vancouver Board of Trade and the BC Chamber of Commerce as part of their respective economic recovery plans tabled with the BC Provincial Government in 2020.

Canada Infrastructure Bank

The Canada Infrastructure Bank (CIB) was established to crowd in private and institutional investment into infrastructure projects. The idea is for the CIB to make an investment into the project at favourable rates, which would then increase the project's attractiveness to private and institutional lenders. The bank was endowed with \$35 billion to make investments into core priorities including: green infrastructure, clean power, public transit, trade and transportation, and broadband infrastructure. The CIB advises public sponsors on infrastructure priorities and develops knowledge and research as a centre of expertise.

The bank has recently undergone some transition with the naming of a new CEO on October 29, 2020¹⁴ and a new Chair on January 28, 2021.¹⁵ On February 3rd, 2021 the CIB released an updated statement of priorities and accountabilities which specifically addressed indigenous infrastructure.¹⁶

*As the CIB identifies investment opportunities in the public interest, I understand that will include infrastructure projects made in partnership with, and that benefit, Indigenous Peoples. In order to support the Government's commitments to advance Indigenous reconciliation and urgently address the **Indigenous infrastructure** deficit, the CIB should establish a new investment target of \$1 billion for Indigenous Infrastructure projects across the five priority areas.*

At this point, the CIB is considering lending to infrastructure projects that serve Indigenous communities. The CIB is contemplating a structure to provide low-cost, patient capital to infrastructure projects that help close the infrastructure gap in First Nations, Metis, and Inuit communities. These projects should be revenue generating and be assets within the CIB growth plan sectors, including: Green infrastructure; clean power; broadband; trade and transport; and public transit.

If risks (such as construction risk and demand risk) could be properly managed, and if CIB was lending on basis of project revenues as opposed to existing revenues, then this could be a good option if equity was permitted. There could be a good opportunity for the FNMPC to collaborate with the CIB to offer capacity support to Indigenous

¹⁴ “Ottawa names Ehren Cory as next Canada Infrastructure Bank CEO”, Bill Curry, Globe and Mail, October 29, 2020

¹⁵ “Vancouver Airport Authority CEO Tamara Vrooman named chair of Canada Infrastructure Bank”, Bill Curry, Globe and Mail, January 28, 2021

¹⁶ <https://www.infrastructure.gc.ca/CIB-BIC/letter2-lettre2-eng.html> , February 3rd, 2021.

Other Examples

Some research has been conducted by the FNMPG on electricity transmission infrastructure in Canada. In the United States, research on Private Equity for Indigenous Peoples was conducted by Kate Finn at the University of Colorado. Incorporating Indigenous priorities into ESG investing in Canada could support opportunities to participate in projects.

ELECTRICITY TRANSMISSION PROJECTS IN CANADA

The table below describes some electric transmission line infrastructure in which Indigenous groups have acquired equity stakes.¹⁷

Table 5 - Summarizing some Indigenous Ownership in Electricity Transmission Infrastructure

	ALBERTA POWERLINE	NEXTBRIDGE	WATAYNIKANEYAP POWER	BRUCE TO MILTON	KINGSVALE ELECTRICITY
Project description	• 508 km • 500 kv	• 450 km • 230 kv	• 1,800 km	• 180 km • 500 kv	• 24 km • 138 kv
Location	Alberta	Ontario	Ontario	Ontario	BC
No. of communities	7	6	17	1	1
Equity	Nations acquired 40% of equity in project	Bamkushwada Limited Partnership holds 20% equity	Ontario Aboriginal Loan Guarantee program used Limited partnership established to raise equity	Ontario Aboriginal Loan Guarantee program used	Lower Nicola Band Development Corp owns 55% - institutional financing for project led by Alberta Treasury
Other notes	35-year tariff agreement – ATCO to operate	Partnership in commercial organization for training and employment	Identified savings as a result of moving from diesel to electricity provided justification for Federal investment	Contract with Trans Mountain Canada Inc. to construct maintain and operate line for 20 years with an option for an additional 20	

¹⁷ “The Role of Indigenous People in Major Project Development – Part II Indigenous Ownership of Electricity Infrastructure: A Case Study.” Prepared by Max Lindley-Peart and Mark Podlasly for the First Nations Major Projects Coalition, May 24, 2020.

ESG INVESTING AND PRIVATE EQUITY IN THE UNITED STATES

Carla F. Fredericks and Kate R. Finn wrote a paper called: *Harnessing Private Equity for Indigenous People* in 2020. The research is about economic development in Indian Country in the United States. The paper compiles information from: online survey; interactive webinar; closed small group meeting and informal conversations. There were participants from the following sectors: impact investing; tribal government; renewable energy; philanthropy; academia; law; financial services. Consultation themes included: interest in a private equity vehicle; readiness in Indian Country; and renewable energy deals in Indian Country.

Given the rise of Impact and ESG Investing (Environmental Social and Governance investing) the research explores the potential of private equity to match the needs of Indian Country. Private equity could be a good match because it is patient capital and typically uses a long-term investment strategy. Firms also generally pair access to capital with technical assistance and business growth management. Although it appears that it could be a good match, there are not currently any funds that meet the needs of Indian Country.

Three cross-cutting themes emerge from the research: ensure an approach to private equity was not extractive; presenting options widely as models is a valuable undertaking; and, a fund must be recognizable as a mainstream, impact-oriented fund with standardized structures and metrics.

ESG INVESTING IN CANADA

The First Nations Major Projects Coalition commissioned research about sustainable investment and the opportunities for ESG investing in Canada. Mark Podlasly, Max Lindley-Peart and Suzanne von der Porten explore the rise of environmental, social and governance investment standards and find that these standards were developed in absence of the consideration of the rights, interests and input of Indigenous peoples. As a result, they argue that these standards undermine the interests of Indigenous peoples and investors.

The authors make an argument for putting the “I” in “ESG” by incorporating things like an Indigenized environmental assessment such as the major project assessment standard developed by the First Nations Major Projects Coalition. They also call for improved access to capital for Indigenous groups and for executive-level officers and boards of directors to directly engage and include Indigenous people into corporate strategy.¹⁸

¹⁸ “*Indigenous Sustainable Investment – Discussing Opportunities in ESG*”, prepared by Mark Podlasly, Max Lindley-Peart and Suzanne von der Porten for the First Nations Major Projects Coalition, January 2021.

ANALYZING ACCESS TO CAPITAL APPROACHES

Credit support or enhancement programs are required because many Indigenous groups do not have the balance sheet or the resources available to make investments into projects. Existing resources may be already committed to provision of programs and services for membership or to local community infrastructure projects.

In 2016, the FNMPC created an illustrative ‘strawman’ project to describe in detail an approach for First Nations to work together to acquire an equity stake in a proposed pipeline project. This included over 90 pages of financial information that was shared with major banks. It included a 40-year financial statement forecast and required a loan of about \$1 billion. The banks’s response was that they would not be able to lend to the project without another security or guarantee in place.¹⁹

Key components of approaches

In this section of the paper some of the programs described above will be compared and contrasted to consider:

- Who is eligible to participate?
- Location of groups / projects
- Types of eligible projects
- Amount that can / has been borrowed
- Amortization period and interest rate of loan
- Loan guarantee coverage (if applicable)
- Other loan guarantee terms (if applicable)
- Loan recourse (to whom?)
- Technical support required or offered
- Benefits to Nations
- Incentives to firms to offer equity to Indigenous groups

¹⁹ “*Project Ownership & Finance*” A report on the Strawman Project made by Delbert Nattrass to the First Nations Major Projects Coalition, March 27, 2017 in Prince George, BC.

Table 6 - Comparing and contrasting some approaches

CHARACTERISTIC OF PROGRAM	ALBERTA INDIGENOUS OPPORTUNITIES CORP	ONTARIO ABORIGINAL LOAN GUARANTEE PROGRAM	FIRST NATIONS FINANCE AUTHORITY	CANADA INFRASTRUCTURE BANK
Who can participate	<ul style="list-style-type: none"> • Indian Bands • Métis Settlements • Other entities • Consortium • Example: 6 Nations 	<ul style="list-style-type: none"> • Corporation that is wholly-owned by an Aboriginal community 	<ul style="list-style-type: none"> • First Nations • Aboriginal Entities • Recent loan to 7 First Nations for purchase of 50% equity stake in seafood company 	<ul style="list-style-type: none"> • First Nation • Métis • Inuit
Location of groups and/or project	<ul style="list-style-type: none"> • Alberta • In case of a consortium minimum threshold attributed to Alberta 	<ul style="list-style-type: none"> • Ontario 	<ul style="list-style-type: none"> • Canada 	<ul style="list-style-type: none"> • Canada
Eligible projects	<ul style="list-style-type: none"> • Energy • Mining • Forest products • Example: Cogeneration Facility 	<ul style="list-style-type: none"> • Renewable green energy including wind, solar, hydroelectric, and transmission projects. 	<ul style="list-style-type: none"> • Community infrastructure and economic development • Example: purchase of equity in Clearwater Seafoods 	<ul style="list-style-type: none"> • Statement of priorities announced February 3rd • Green infrastructure, clean power, broadband, trade and transport, public transit
Amount to be borrowed	<ul style="list-style-type: none"> • \$20-250 million • AIOC is guarantor not lender 	<ul style="list-style-type: none"> • \$5-50 million but exemptions are possible • OALGP is guarantor not lender 	<ul style="list-style-type: none"> • Recent \$250 million loan for Clearwater but other Nations participate in \$354 million debenture • FNFA arranges access to capital through debenture 	<ul style="list-style-type: none"> • CIB Is lender
Amortization and rate	<ul style="list-style-type: none"> • Example: 15-year amortization • Encourage better rates from investors through use of loan guarantee 	<ul style="list-style-type: none"> • Lifecycle of asset or Power Purchase Agreement • Encourage better rates from investors through use of loan guarantee 	<ul style="list-style-type: none"> • Example: 30-year amortization • Rate 9 bps > Ontario 	<ul style="list-style-type: none"> • Amortization TBD • Interest rate TBD
Loan guarantee coverage	<ul style="list-style-type: none"> • Percentage of loan guarantee coverage at sole discretion of AIOC – 100% coverage is possible • Example: no construction risk 	<ul style="list-style-type: none"> • Loan guarantee for up to 75% of equity stake • Remaining 25% of equity to be acquired by Nations without loan guarantee 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • N/A

CHARACTERISTIC OF PROGRAM	ALBERTA INDIGENOUS OPPORTUNITIES CORP	ONTARIO ABORIGINAL LOAN GUARANTEE PROGRAM	FIRST NATIONS FINANCE AUTHORITY	CANADA INFRASTRUCTURE BANK
Other notes on the loan guarantee	<ul style="list-style-type: none"> • Loan guarantees provided no earlier than point of financial close for project after regulatory approvals are in place and same time, or after, other financing in place • Program criteria include: benefits to indigenous communities and to Alberta, Commercial and Investment Viability, Skill and Expertise, Overall strength of the Application • Successful applicants will be expected to make provision in their financial plan for a loan guarantee fee (based on an assessment of factors in program criteria) • This will include upfront fee and ongoing fee 	<ul style="list-style-type: none"> • Loan guarantees provided no earlier than point of financial close for project after regulatory approvals are in place and same time, or after, other financing in place • Guaranteed loan is not subject to refinancing risk (e.g., the term matches the amortization period). • Guaranteed loan is not subject to interest rate exposure (i.e., the loan has a fixed interest rate without the use of an interest rate swap). 	• N/A	• N/A
Recourse to whom? (Nations, SPV)	<ul style="list-style-type: none"> • Commercial and investment criteria include: is the security pledged in support of the guaranteed loan satisfactory to AIOC? 	<ul style="list-style-type: none"> • Corporations that are wholly owned by Aboriginal communities 	<ul style="list-style-type: none"> • All 7 Nations were FNFA borrowing members – part of the 22 Nations that were part of debenture • More than one hundred twenty borrowing members in 9 provinces and one territory 	<ul style="list-style-type: none"> • Special Purpose Vehicle
Technical Support Required / Offered	<ul style="list-style-type: none"> • Sufficient level of due diligence required to satisfy eligibility criteria • Capacity support funds available for the following areas: evaluation, advisory, corporate and development 	<ul style="list-style-type: none"> • Due diligence required but program is not responsible for any costs incurred by the applicant related to the application and review process. 	<ul style="list-style-type: none"> • Capacity support from FNFA • Capacity support from First Nations Financial Management Board for Certification to become borrowing member 	<ul style="list-style-type: none"> • Indigenous groups responsible for preparing business case for project
Benefits to Nations	<ul style="list-style-type: none"> • Jobs, training, dividends • Example: Nations to be paid first 	<ul style="list-style-type: none"> • Jobs, training, dividends • Cashflow from project can be delayed depending on how Nations have acquired remaining 25% equity stake 	<ul style="list-style-type: none"> • Own source revenues and job opportunities 	<ul style="list-style-type: none"> • Should be a revenue component from user fees • Improved community services
Incentive for firms to offer equity	<ul style="list-style-type: none"> • Project proponent wanted indigenous partners 	<ul style="list-style-type: none"> • Province had offered higher price to purchase electricity (price adder) from project that includes Indigenous participation. 	<ul style="list-style-type: none"> • Company had announced in March 2020 it would be launching a strategic review to solicit consider and evaluate proposals for the purchase of the company. 	<ul style="list-style-type: none"> • N/A – community project

¹⁹ “Separate from the ALGP, to encourage project proponents to offer equity to Indigenous groups, the Province provided for “price adders” to the Independent Electricity System Operator’s Feed-in-Tariff contracts, which increased the price that the IESO would pay for power from a project that included Indigenous ownership. The price adder would make the project more profitable with an Indigenous partner. This provided an opportunity for Indigenous groups to have ownership and control to influence operation of the project and to create employment opportunities for members

Opportunity Costs

The costs of establishing a credit enhancement program should be considered in the context of the opportunity costs of not proceeding with projects. If projects are frustrated by an inability to find a way for Indigenous participation, then the revenue streams described in the table below would be adversely affected.

Table 7 - Considering types of opportunity costs

NAME	REVENUE	NOTES
Provincial Government	Royalty	<ul style="list-style-type: none">• Paid by project company
	Corporate income tax	<ul style="list-style-type: none">• Paid by project company• Paid by subcontractors
	Personal income tax	<ul style="list-style-type: none">• Paid by employees of project company• Paid by employees of subcontractors
Federal Government	Corporate income tax	<ul style="list-style-type: none">• Paid by project company• Paid by subcontractors
	Personal income tax	<ul style="list-style-type: none">• Paid by employees of project company• Paid by employees of subcontractors
Local Government	Property tax	<ul style="list-style-type: none">• Paid by project company
Project company	Income	<ul style="list-style-type: none">• Earned after paying capital, operating & overhead costs, royalties, taxes
Individuals employed	Income	<ul style="list-style-type: none">• Project company• Subcontractors

For an example of the contrast between the amount of a loan guarantee and economic impacts of a project, consider research conducted by the First Nations Financial Management Board in 2013. This research considered a scenario where a loan guarantee was used for a \$4.5 billion investment by an Indigenous group into mid-stream infrastructure in natural gas. This investment unlocked over \$200 billion in economic impacts including royalties, taxes and income earned.²¹

²¹ “Opportunities for First Nations in Proposed Liquified Natural gas Projects in British Columbia”, First Nations Financial Management Board, October 2013.

In 2019, at the request of 12 First Nations, FNMPC supported its members who led an effort to purchase 10% equity in a liquified natural gas pipeline asset through a commercial sale by a large energy infrastructure company. While the First Nation consortium's indicative terms bid was strong enough to be shortlisted for further consideration, ultimately the consortium was forced to forfeit their equity and disengage in the final stages of the bid due to an uncompetitive cost of capital and no available credit support from government programs or 3rd parties. While the outcome demonstrated a significant opportunity cost to the First Nation consortium, the exercise did provide a real time demonstration of the following:

- When Indigenous communities have access to the right capacity and advice, they can participate in complex commercial opportunities alongside institutional investors
- In the absence of credit enhancements by governments or 3rd parties, access to competitive capital remains a key barrier to unlocking equity opportunities for Indigenous communities who wish to participate in major resource projects
- The opportunity cost to Indigenous communities in losing out on equity opportunities is significant and material to not only local Indigenous communities, but to the regional and national economies

LEARNINGS FROM INNOVATIVE APPROACHES TO ACCESS CAPITAL

The following are some learnings that can be taken from experience to date:

- Not all First Nations may be interested in equity on all projects. But many First Nations are expressing an interest in the opportunity for more influence as an owner, and the ability to participate in profits if risks can be adequately managed.
- If Indigenous groups decide to pursue equity, rigorous due diligence is required to analyze and manage project risks related to both construction and demand. For example, is the project going to be built on time and on budget, is the project going to work effectively once it is completed, and will the project produce a product that can be sold over a period of time to earn a profit.
- If these risks can be managed, then the project may be commercially viable which means that: (a) there is a reduced risk that the loan guarantee is called upon; and, (b) there is reduced risk to Indigenous groups that may be using profits from the project to further leverage investments in infrastructure in their communities.
- The need for long-term predictability regarding demand may mean that certain sectors are more suitable for these types of arrangements than others.
- Presenting options widely as models is a valuable undertaking because even if the model is not used for one project it may be valuable for another. Example of capacity support include:
 - » Indigenous groups to come together and form a single entity to represent their participation in a project,
 - » Approach to due diligence in specific sectors,
 - » Models for meaningful engagement with Indigenous communities, and
 - » Participation in ongoing project governance to have influence in the operation of the project.
- The ability for Indigenous groups to share in profits of a project depends on the cost of capital. Benefits to groups can be delayed and/or diminished if a loan guarantee does not provide full coverage. If a project is de-risked, then investors wanting to participate in the project will be very competitive and will likely squeeze out the opportunity for Indigenous groups to participate or reduce the benefits to the Indigenous groups of participating. This means it may be useful to create incentives for private sector proponents to include Indigenous participation through regulatory processes or via economic incentives. The emergence of ESG investing could play a crucial role in encouraging the private sector to prioritize Indigenous participation and responsible resource development.
- If equity participation is included as a key term in an Impact Benefit Agreement (IBA), it could play a role in securing an equity loan.
- A loan guarantee may not be required for the entire lifecycle of the project. There is evidence of projects where a loan guarantee is provided before construction, after construction, for the lifecycle of an asset, and for the duration of a power purchase agreement. In addition, there is evidence of an approach that considers a loan guarantee for the construction period and then the project revenues can replace the loan guarantee.

- The analysis shows that projects that use loan guarantees are subjected to considerable due diligence by the guarantor since the guarantee will show as a contingent liability on the guarantor's financial statements. But if use of a loan guarantee has a fee associated with it and then the project proceeds, the economic impacts are considerable. This includes government revenues like royalties and taxes and income to firms and people.
- Private sector proponents may not be interested in selling equity stakes. Evidence from examples in this paper have demonstrated some ways that the public sector can establish incentives for the private sector to consider participation including regulatory approvals and market incentives (i.e. price adders).

Considerations for a National Benefit Sharing Framework

The purpose of this paper is to consider the development of a National Benefit Sharing Framework. Some of the innovative approaches described in this paper should be considered to be adapted for more Indigenous groups and for more projects to move ahead in a responsible way. Indigenous participation in major resource projects could be a way to implement some aspects of FPIC and UNDRIP.

Indigenous participation in major resource projects supports an economic recovery strategy that would support economic growth for all Canadians. Such a strategy would also support regional economic growth including benefits for local, regional and provincial governments. In addition, such a strategy would generate long term predictable revenue streams that indigenous groups could use to secure financing for local community infrastructure projects which would support closing the Indigenous infrastructure gap.

The evidence in this paper has demonstrated the need for due diligence and capacity support for participating Indigenous groups in order to effectively structure a deal so that access to capital is possible at competitive prices. An organization like the FNMPC could play an important role in providing such services.

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