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| Algonquins of PikwakanaganFirst Nation |



**Date:** May 16, 2025

**To:** Honourable Stephen Lecce, Minister of Energy and Mines

**From:** Amanda Two-Axe Kohoko, Manager, AOPFN Consultation Department

**Re:** **Response to Bill 5 - *Protect Ontario by Unleashing our Economy Act 2025***

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We the Algonquins of Pikwàkanagàn First Nation are providing initial comments on Bill 5, as it has direct impact to our members and our inherent rights as enshrined in the Section 25 andSection 35of the *Canadian Charter of Rights and Freedoms* and reaffirmed in Bill 76, *United Nations Declaration on the Rights of Indigenous People’s Act, 2019 (UNDRIP)*.

The Algonquins of Pikwàkanagàn have lived in our unceded unsurrendered Traditional Territory since time immemorial, practicing our ways and living according to our laws and culture. We continue to assert and exercise Aboriginal title and rights to, and in all parts of, unceded Traditional Territory. Any legislation and policy changes proposed by the Government of Ontario that are contrary to our Constitutionally protected Section 35 rights and our Algonquin governance and stewardship standard and requirements, will be opposed by our Nation, and have the potential to damage the Nation-to-Nation relationship we have with Ontario.

We note that the Ontario Government has not offered the courtesy of meaningful consultation on Bill 5 (the Bill) as should be a courtesy of the Algonquins of Pikwàkanagàn First Nation’s (AOPFN) Nation-to-Nation relationship with the Crown.

AOPFN takes issue with the lack of consultation on the bill across the board. All peoples who live in Ontario should have a say in the laws that govern them, but as a First Nation on unceded territory, this lack of consultation takes our Nation-to-Nation relationship in the wrong direction. The proposed changes directly contradict standing legislation, including the Government of Ontario’s commitment to, in consultation and cooperation with Indigenous peoples in Ontario, take all measures necessary to ensure the laws of Ontario are consistent with the United Nations Declaration on the Rights of Indigenous Peoples. Bill 5 contains several proposed amendments that directly contravene Articles of *UNDRIP*.

# **AOPFN General Concerns on Bill 5:**

At a high level, AOPFN is concerned about:

* The expansion of ministerial powers coupled with the removal of ministerial and proponent oversight which does not allow for the AOPFN to have meaningful dialogue on projects and when needed, including to seek changes based on our inherent rights to develop free, informed, and prior consent on proposed projects.
* Violation of existing legislation including but not limited to Articles 1, 4, 5, 8, 11-13, 18, 19, 23-26, 28, 29, 31, 32, 39, 40, 41, and 46 of Bill 76 and Section 25 of the Charter.

Ultimately, supposedly faster and “streamlined” regulatory processes are not more efficient processes if they ultimately lead to:

* Indefensible legal positions by the Crown that end up bottlenecking in Court.
* Trampling of Constitutionally protected cultural rights of Indigenous peoples; and
* Undermining of Crown-Indigenous relations, the health of which is the true path to more efficient project development in Ontario.

As these proposed amendments currently stand, the **AOPFN is opposed to Bill 5**.

Below highlights the major issues with the proposed changes to four of the Acts that are impacted by the proposed legislation.

# **AOPFN Specific Concerns on Bill 5:**

## Enactment of the Special Economic Zones:

* The proposed changes significantly increase the discretionary powers of the Minister and Lieutenant Governor allowing for them to provide discretion over the defining of “trusted proponents” and exempts those proponents from municipal and provincial laws. There is no mechanism by which AOPFN has oversight or review of these “trusted proponents” and confirm these proponents are adhering to the requirements of the projects and stop them should the requirements be disregarded. AOPFN rejects outright that the Crown can determine which proponents are to be “trusted” without agreement by Indigenous Nations.
* Designation of Special Economic Zones, if they occur within AOPFN’s unceded Algonquin territory, would remove mechanisms by which the AOPFN can conduct project reviews through regulatory process and does not allow for AOPFN to develop free, prior, and informed consent on any project within these zones.
* The proposed changes are in contravention of the governance and self-determination sections of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

## Interim Amendments to the Endangered Species Act and repeal, towards replacement with the Species Conservation Act:

* These proposed changes increase the risk to vulnerable species and their habitats. AOPFN continues to be concerned about the potentially irreversible cumulative impacts on our territory. We cannot continue to allow the destruction of species and their habitats, and it is now more imperative to adhere to the mechanisms that allow for habitat protection, enhancement, and restoration, especially for vulnerable species and their habitats.
* AOPFN opposes the narrower definition of habitat which does not consider the entire scale of relationships of species on the land.
* AOPFN opposes the amendment to remove harassment of species, as species are impacted by more than direct destruction of their habitat and management of other impacts is key to the management of vulnerable species.
* AOPFN opposes the amendments that would allow a “registration over permit approach” that put vulnerable species at risk at harm of impact before projects are thoroughly reviewed.
* AOPFN opposes the removal of requirements for the Ontario Government to respond to and develop management plans for vulnerable species.
* The regulatory tools to allow AOPFN to develop free, prior, and informed consent for a project are limited or removed, which would create an environment where the only recourse to protect the environment and our section 35 rights would be through the courts.
* AOPFN opposes the removal of regulatory powers from COSSARO, removing the protections that stem from the listings and removing the mechanisms for transparency and accountability of the Ontario Government’s responsibility for the stewardship of species at risk.
* The proposed changes are in contravention of multiple sections of UNDRIP.

## Amendments to the Ontario Heritage Act:

* The AOPFN have a deep and ongoing cultural history in what is now Ontario, which is partially represented by the material culture and artifacts that are found throughout our unceded Algonquin territory. The proposed amendments to section 66.1, which would allow the Ontario Government to exempt any property from an archaeological assessment, violates Articles 11 and 12 of UNDRIP and the inherent and inalienable cultural rights of the AOPFN.
* AOPFN opposes amendment 66.1 that proposes to exempt projects from the requirement to conduct an archaeological assessment. The absence of evidence is not evidence of absence; often archaeological discoveries due to historic resource legislation are the only reasons why anyone knows of sites at all as they have been lost to living and cultural memory due to a variety of reasons, not least of which is cultural memory lost through the impacts of colonization and settlement. The decision to remove the analysis of sites prior to construction to streamline an already underfunded process will allow for the destruction of archaeological sites and substantial to significant infringements of the cultural rights of AOPFN. These proposed changes also eliminate several of the checks and balances that were inherent in the regulatory processes. The removal of the discussion with the Trust is concerning, as it solidifies the power of the Minister to make the decision without any internal or external feedback and discussion. This will obviously not pass the test of meaningful consultation.
* As with the proposed amendments to other acts under Bill 5, these changes remove the mechanisms for oversight and review of the decisions made by the Ministers and landowners over archaeological and cultural material that represent the past manifestations of, cultural history of, and rightful birthright of, the AOPFN. This proposed amendment would give the Minister a lot of power that could be exploited at will; being an appointed position by the Ontario Government does not leave a lot of confidence that these powers will not be abused to push developments through without proper archaeological assessments. This feels like harkening back to a time when construction workers would hide artifacts in fill. It’s about normalizing a culture of not doing due diligence and not taking the care and time that should be going into projects.
* Much of the stripping away of archaeological and cultural heritage requirements is also contrary to cultural heritage sections of UNDRIP.

## Amendments to the Mining Act:

* These changes coalesce the power directly to the Minister again, making decisions on a case-by-case basis without outlining any mechanisms for required reviews for the AOPFN to develop free, prior, and informed consent based on the possible impacts on the development of the projects.
* The proposed changes provide direct Ministerial support for review of proponent applications, as seen fit by the minister, which appears to support approval of projects without the time for thorough review and consultations.
* The proposed changes are in contravention of the inherent land rights sections of the UNDRIP.

# Closing:

It is clear that much more Nation-to-Nation consultation is necessary before any changes are contemplated that would impact the regulatory, impact assessment, archaeological assessment, and species at risk assessment processes of Ontario.

Aboriginal rights protected under the Canadian Constitution will not be bent or broken by knee-jerk reactions by the Province to real or perceived economic headwinds. Such a reaction is evident in the proposed revisions to provincial legislation outlined in Bill 5. AOPFN remains ready to have real and substantive consultation about how to actually promote sustainable economic development with defensible improvements that does not trample our rights when Ontario is ready.

Mìgwech,



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Algonquins of Pikwàkanagàn First Nation

cc:

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Lisa Meness, Executive Director of Operations, AOPFN