Legislative Policy Brief– Call For Oppositional Challenge to Bill 5

Bill 5: An Act to enact the Special Economic Zones Act, 2025, to amend the Endangered Species Act, 2007 and to replace it with the Species Conservation Act, 2025, and to amend various Acts and revoke various regulations in relation to development and to procurement—short-titled the ***Protect Ontario by Unleashing our Economy Act, 2025***

Bill 5 cannot be allowed. Our environment, rights, and collective future cannot be permitted to become collateral damage in this government's pernicious private-interests pursuit. Bill 5 is not sound economic policy as it is being touted, it is simply another attempt to dismantle environmental protections, erode rights, and offload critical public infrastructure to serve the narrow interests of the wealthiest —often foreign—investors and speculative markets. There is no legitimate rationale for treating public goods as disposable assets for private profit. This is a deliberate transfer of value and control from the public to unaccountable private hands. It undermines long-term stability, democratic oversight, and the foundational principles of a functional and equitable society. It must be halted.

Legal and Legislative Grounds for Objection:

1. **Violations of Ontario's Environmental Bill of Rights (EBR)**

   The EBR guarantees Ontarians the *right to participate* in decisions that affect the environment and the *right to seek environmental justice*. Bill 5 guts these rights:

   - It **revokes or weakens mandatory public consultation** on key environmental decisions by offloading Ministerial responsibility to arbitrary discretion (e.g., changes to the *Endangered Species Act* and *Environmental Assessment Act*).
   - It **removes independent oversight and automatic listing requirements for endangered species**, replacing scientific, arm's-length authority (COSSARO) with politically influenced decision-making.
   - It **terminates public and Indigenous consultation obligations**, in direct contradiction to the *Environmental Assessment Act*'s Part II.3 processes, notably by exempting high-impact projects like the Eagle's Nest mine and Chatham-Kent landfill from proper review.

   These moves are antithetical to the intent and spirit of the EBR, and violate the foundational democratic principle of informed and meaningful public participation in environmental governance.

2. **Extinguishment of Legal Rights and Accountability**

   Multiple schedules—*Electricity Act*, *Mining Act*, *Ontario Energy Board Act*—include **new provisions that explicitly extinguish causes of action** and **bar legal proceedings**, even retroactively. These clauses:

   - Erode access to justice and shield public bodies and private beneficiaries from liability.
   - Contravene **Section 96 of the Constitution Act, 1867**, which protects the role of the courts and judicial independence.
   - Set a precedent for **regulatory impunity**, where affected communities and Indigenous Nations lose their right to challenge environmentally or economically harmful decisions.

   The fact that these extinguishment clauses appear repeatedly and across sectors demonstrates not only a pattern, but an intent to insulate this government and its corporate allies from scrutiny or consequence.

3. **Violation of Indigenous Rights and Treaty Obligations**

   Bill 5 runs roughshod over Ontario's duty to consult and accommodate Indigenous peoples under **Section 35 of the Constitution Act, 1982** and affirmed in *Haida Nation v. British Columbia (Minister of Forests), 2004 SCC 73*.

   - Exempting high-impact resource projects from environmental assessment and suspending permitting requirements removes the opportunity for **free, prior, and informed consent**.
   - Repealing or centralizing regulatory safeguards erodes the government's fiduciary duty to Indigenous communities and lands.

   The revocation of previous environmental agreements (e.g., Eagle's Nest) also undermines any negotiated trust with First Nations in the Ring of Fire and beyond, further entrenching colonial patterns of dispossession.

4. **Economic Concentration and Misuse of "Special Economic Zones"**

   The introduction of the *Special Economic Zones Act, 2025* under the guise of economic development is nothing short of a **land grab and regulatory black hole**. These zones:

   - Are designed to **suspend standard rules**, create tax and regulatory havens, and **entrench corporate control** over public infrastructure and services.

- Follow the same trajectory as controversial *Minister's Zoning Orders (MZOs)* used to override municipal planning and public consultation in favour of politically connected developers.
- Do nothing to guarantee job creation, livable wages, local procurement, or long-term prosperity for Ontarians.

Instead, these zones will siphon public funds into private speculation and create localized authoritarian rule-by-developer—a dystopia with a façade of economic growth.

5. **Destruction of Conservation and Environmental Stewardship**

   The overhaul of the *Endangered Species Act* and *Species Conservation Act* strips away the precautionary principle, a cornerstone of responsible governance. Removing requirements for:

   - automatic protections upon species listing,
   - mandatory recovery strategies,
   - permit conditions, and
   - the Species at Risk Stewardship Program,

   ...ensures that species protection is now optional and contingent on political will—not scientific necessity. This violates Canada's obligations under the **Convention on Biological Diversity** and Ontario's own regulatory commitments.

Bill 5 is not an economic plan; it is a legislative weaponization of deregulation, a handover of public goods to private profiteers, and an affront to democratic governance.

This government is attempting to codify a reality where:

- Laws are optional for corporations;
- Courts are inaccessible to the public;
- Environmental and Indigenous protections are barriers to be bulldozed;
- And public resources—our water, land, air, and heritage—are up for grabs by the highest bidder.

Key Context:

Background

is an omnibus bill comprising ten legislative schedules. While framed as a unified economic stimulus package, it is, in substance, a sweeping deregulatory agenda. It introduces two new statutes and amends or dismantles provisions across nine additional Acts. Each schedule carries significant legal, environmental, and democratic implications. Together, they represent a deliberate and coordinated erosion of environmental oversight, Indigenous rights, public accountability, and legislative safeguards.

Rather than promoting long-term prosperity, Bill 5 functions as a blunt instrument for accelerating private-sector land use and resource extraction under the guise of "streamlining" and "economic resilience." The bill enables rapid development by curtailing public input, bypassing environmental due diligence, and centralizing unchecked power in the hands of ministers and politically aligned actors. It privileges industry — particularly mining, energy, and real estate developers — at the direct expense of environmental integrity, public consultation, and constitutionally protected rights.

Each schedule must be scrutinized not just individually, but as part of an overarching pattern: a systemic shift away from transparent, evidence-based, participatory governance and toward executive overreach, reduced oversight, and the hollowing out of regulatory infrastructure.

The ten schedules include:

- **Schedule 1 – Electricity Act, 1998**
- **Schedule 2 – Endangered Species Act, 2007**
- **Schedule 3 – Environmental Assessment Act**
- **Schedule 4 – Environmental Protection Act**
- **Schedule 5 – Mining Act**

- **Schedule 6 – Ontario Energy Board Act, 1998**
- **Schedule 7 – Ontario Heritage Act**
- **Schedule 8 – Rebuilding Ontario Place Act, 2023**
- **Schedule 9 – Special Economic Zones Act, 2025**
- **Schedule 10 – Species Conservation Act, 2025** *(to repeal and replace the Endangered Species Act, 2007)*

Collectively, these schedules:

- Strip back environmental assessment requirements;
- Undermine Ontario's obligations under Section 35 of the *Constitution Act, 1982* regarding Aboriginal and Treaty rights;
- Weaken the *Environmental Bill of Rights, 1993* and Ontario's Statements of Environmental Values;
- Bypass or gut processes intended to ensure public transparency, scientific integrity, and democratic oversight.

The language of "resilience," "security," and "streamlining" obscures what is, in effect, an assault on the rule of law in environmental and planning governance. What is being unleashed is not prosperity, but a deregulatory cascade — enabling unaccountable development, undermining constitutional rights, and accelerating ecological risk.

Proposals by Schedule

1. Schedule 1 (Electricity Act, 1998), Schedule 5 (Mining Act, 1990), and Schedule 6 (Ontario Energy Board Act, 1998)

ERO: 025-0409

Key Concerns:

- Establishes a "One Project, One Process" (1P1P) model that expedites permitting by consolidating all authorizations under a single politically appointed team — the Mine Authorization and Permitting Delivery Team (MAPDT).
- Excludes timelines for the Crown's duty to consult Indigenous Peoples, effectively isolating and delaying consultation and reducing it to a procedural afterthought.
- Grants the Minister unilateral authority to suspend, revoke, or restrict claims, leases, or MLAS accounts under the vague justification of protecting the "strategic mineral supply chain."

Grounds for opposition:

- **Violates Section 35 of the Constitution Act, 1982** by undermining the requirement for meaningful, timely consultation with Indigenous communities.
- **Conflicts with Supreme Court precedent** (Haida Nation v. British Columbia, 2004 SCC 73; Clyde River v. Petroleum Geo-Services Inc., 2017 SCC 40), which affirms that the duty to consult must be substantive and cannot be backloaded or bypassed for expediency.
- **Contravenes recommendations by the Auditor General of Ontario (2022)**, which noted the province had no cumulative impact framework and routinely failed to assess environmental risks prior to permitting exploration.
- **Creates financial incentives for ministries to shortcut oversight**, as fees may be refunded if "service standards" aren't met, increasing political pressure to approve applications rapidly.

2. Schedule 7 — Amendments to the Ontario Heritage Act

ERO: 025-0418

Key Concerns:

- Allows Cabinet to exempt any property from archaeological assessment requirements.
- Removes procedural guarantees such as mandatory stop orders or compensation.
- Expands Ministerial powers for artifact seizure and site inspections but undermines the legal mandate for proactive site protection.

Grounds for opposition:

- **Undermines cultural heritage protection** by allowing development on potentially significant archaeological lands without due process or expert input.
- **Conflicts with recommendations from the Ontario Federation of Indigenous Friendship Centres**, which have long advocated for stronger, not weaker, protection of Indigenous cultural sites.
- **Violates the spirit of the Environmental Bill of Rights (1993)** by removing public transparency and legal recourse.

3. Schedule 9 — Special Economic Zones Act, 2025

ERO: 025-0391

Key Concerns:

- Empowers the Minister and Cabinet to designate "zones" where select proponents can bypass laws, permits, and municipal bylaws.
- Lacks definitions for what constitutes a "trusted proponent" or "high environmental standards."
- Offers no requirement for public notice, consultation, or third-party environmental review.

Why it must be opposed:

- **Creates a two-tiered legal system** where designated actors receive blanket exemptions from laws that apply to everyone else.
- **Encourages regulatory capture and political favouritism**, reminiscent of MZO abuse and the Greenbelt land swap scandal — the subject of an ongoing RCMP criminal investigation.
- **Violates the Statement of Environmental Values (SEV)** of the Ministry of Environment, Conservation and Parks, which promises Ontarians meaningful involvement in environmental decisions.

4. Schedule 10 — Proposed interim changes to the Endangered Species Act, 2007 and proposal for the Species Conservation Act, 2025

ERO: 025-0380

Key Concerns:

- Replaces a permit-based review process with a "registration-first" model where development may begin before any environmental assessment or ministerial review.
- Narrows the legal definition of habitat and removes "harassment" from the list of prohibited harms.
- Removes requirements for recovery strategies, government response statements, and species-at-risk monitoring.
- Codifies ministerial discretion to exclude federally protected species (e.g., migratory birds) and delegate conservation to voluntary programs.

Grounds for opposition:

- **Guts the precautionary principle** — a cornerstone of environmental law — by allowing activities to proceed with no upfront review.
- **Contradicts findings from the Environmental Commissioner of Ontario (2017)**, which emphasized the vital role of recovery strategies and habitat protections in halting biodiversity loss.
- **Delegates protection to discretionary and voluntary programs** despite the Auditor General's 2020 follow-up audit, which found most stewardship projects lacked measurable conservation outcomes.
- **Risks conflict with the federal Species at Risk Act (SARA)** and exposes Ontario to litigation for jurisdictional failure and noncompliance.

5. Addressing Changes to the Eagle's Nest Mine Project

ERO: 025-0396

Key Concerns:

- Proposes to revoke the existing terms of reference and cancel the previously required comprehensive environmental assessment (EA).
- Fails to establish a new equivalent process under the Environmental Assessment Act.
- Treats scope changes as justification for *less* review, not more.

Grounds for opposition:

- **Sets a dangerous precedent** where changing the scope of a project nullifies prior environmental obligations rather than triggering more scrutiny.
- **Disrespects Indigenous governance and jurisdiction in the Ring of Fire**, where numerous First Nations have publicly stated that consultation has been inadequate or absent.
- **Directly undermines transparency and community participation**, which are core values under the Environmental Bill of Rights.

6. Removing Environmental Assessment Requirements for the York1 Waste Disposal Site Project

ERO: 025-0389

Key Concerns:

- Proposes to revoke O. Reg. 284/24, removing EA requirements for a major landfill expansion project in Chatham-Kent.
- Relies solely on Environmental Compliance Approvals (ECAs), which do not assess cumulative impacts or community health risks.

Grounds for opposition:

- **Deliberately misrepresents ECAs as sufficient substitutes for EAs**, which they are not. ECAs address only narrow technical criteria, not broader land-use, ecological, or social implications.
- **Removes public input and transparency**, as EAs are the only venue for cumulative and long-term impact reviews.
- **Undermines public trust**, especially in rural communities facing industrial encroachment and waste management burdens.

Each of these schedules is concerning on its own, but taken together, they represent a fundamental restructuring of Ontario's regulatory regime to benefit private industry at the expense of the environment, Indigenous rights, and the democratic process. The use of omnibus legislation to achieve these aims undermines public accountability and legislative oversight, and must be categorically rejected.

Summary

Environmental Registry of Ontario, opposition Members of Provincial Parliament, legal scholars, Indigenous Nations, and civil society organizations must not only reject Bill 5 in its entirety, but to actively challenge its provisions through all available legal, legislative, and constitutional mechanisms.

Ontario cannot permit the degradation of environmental protections, the erosion of constitutionally affirmed rights, and the reckless offloading of public assets under the guise of economic stimulus. Bill 5 represents not sound economic governance, but a calculated attempt to dismantle regulatory frameworks, bypass public accountability, and transfer public value into the hands of private — often foreign — corporate interests. There is no valid economic or democratic justification for treating public goods as disposable assets for short-term private gain.

This legislation constitutes a profound abdication of public responsibility. It undermines environmental sustainability, violates Indigenous and Treaty rights obligations, and concentrates economic and decision-making power in unaccountable and politically aligned entities. The bill's omnibus structure and its sweeping deregulation of land use, natural resources, and critical infrastructure amount to a structural assault on the foundational principles of transparency, equity, and democratic oversight.

As taxpayers and rights-holders, Ontarians unequivocally oppose Bill 5, *Protect Ontario by Unleashing our Economy Act, 2025*, on the grounds that it constitutes brazen legislative overreach, a systemic dismantling of long-established safeguards, and a dangerous reallocation of public control to private, unelected actors. This is not a path to prosperity — it is a deliberate act of institutional sabotage designed to benefit a narrow class of investors and political allies within the development and extractive sectors, at the expense of the public interest, intergenerational equity, and the long-term economic stability of Ontario.

This bill must be halted.

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