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Hon. Doug Ford
Premier of Ontario
Legislative Building
Queen's Park
Toronto, ON M7A 1A1

Hon. Todd McCarthy
Minister of Environment and Climate
Change
40 St Clair Ave West
Toronto, Ontario M4V 1M2

Hon. Victor Fedeli
Minister of Economic Development, Job
Creation & Trade
College Park, 18th Flr, 777 Bay St
Toronto, ON M7A 1S5

Hon. Graham MacGregor
Minister of Citizenship and
Multiculturalism
14th Flr, 56 Wellesley ST W
Toronto, ON M7A 2E7

May 16, 2025

Comments on Bill 5, *Protect Ontario by Unleashing Our Economy Act* ; ERO 025-0380; ERO 025-0418; ERO 025-0391

Dear Premier Ford, Minister Fedeli, Minister McCarthy and Minister MacGregor,

As Chief of the Mississaugas of Scugog Island First Nation (MSIFN) and a member of the Williams Treaties First Nations (WTFN), please accept the following comments as our community's strong objections to the proposed *Bill 5, Protect Ontario by Unleashing Our Economy Act* that would exempt archeological and environmental assessment requirements from certain developments and projects in Ontario. Of particular concern are the missing mandate for consultation, and the proposed changes to the *Ontario Heritage Act* and *Endangered Species Act* that will lessen protections for Indigenous culture and species at risk – critical to the exercise of Aboriginal and Treaty Rights, including Caribou, Black Ash and Butternut. By removing regulatory requirements or the need to grant permits or licences, the province is significantly limiting the consultation owed to First Nations.

The province has a duty to consult and, where appropriate, accommodate Indigenous groups where it considers conduct that might adversely impact potential or established aboriginal or treaty rights. This duty comes from Section 35 of the *Constitution Act*,



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1982, which recognizes and affirms the rights of Aboriginal people. However, despite this duty, consultation has continued to fall short of its intended purpose, often leaving Indigenous voices marginalized and our rights inadequately protected. For example, consultation does not consider cumulative impacts to rights - a legal requirement in Canada. We are deeply disappointed to see that Bill 5 continues to ignore this constitutional duty to consult. Notably, the Special Economic Zones (SEZA) do not include any explicit oversight mechanisms or ways in which First Nations governments will be able to either participate in, or raise concerns about, decision-making under the SEZA.

The *Ontario Heritage Act (1990)* mandates the conservation of resources that have been determined to have archaeological value. We are concerned that the government is granting itself the ability to exempt any project that they deem to be of economic importance from these requirements. Any such action would ignore the province's duty to consult and violates the spirit of the Truth and Reconciliation Committee (TRC) and its 94 Calls to Action.

Our history and culture have been transmitted orally since time immemorial. The policy of cultural genocide on our civilizations began as soon as the first European reached our shores. As our Peoples were displaced onto reserves, forced to assimilate and attend residential schools, and punished for speaking our own languages, much of our culture was lost and, presently, in danger of fading away and being forgotten. Often our ancestors died from disease or neglect caused by assimilation before their stories could be passed down, and many of their graves and communities lie unknown and await rediscovery. Any cultural and archaeological evidence of our past should receive increased protection and importance, not less. The proposed changes to the Act violate Article 5 of UNDRIP, which states Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

The act of consultation is a constitutional principle that's derived from the Honour of the Crown. The Honour requires that the government, in its dealings with Indigenous



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peoples, are to act with integrity, good faith, and fairness. It is a foundational concept in reconciling Crown-Indigenous relationships in Canada.

A failure to uphold this honour is illegal and violates s.35 rights.

The research of noted conservation scientist Daniel Kraus has revealed that over half of Canada's extinct or extirpated species are from Ontario, making our province an extinction hotspot. The proposed repeal of the *Endangered Species Act, 2007* and replacement with the *Species Conservation Act, 2025* would eliminate protections for species and the habitats they rely on. The Act places more responsibility on First Nations communities to preserve at-risk species and their habitat. Ontario signed treaties with our community, recognizing the shared responsibilities we have for our living relatives. Measures proposed under the new Act include redefining and narrowing the definition for habitat to just the specific area animals live in, rather than the larger area they use for travelling to find food. As habitat loss is one of the leading threats to most species at risk, this change will lessen protections and put more species into jeopardy.

Moreover, the move to a registration-first approach that permits a proponent to begin work before a permit is issued by the Ministry of Environment, Conservation and Parks is of great concern. This approach could facilitate the extirpation of at-risk species in Ontario. Additionally, it removes recovery initiatives aimed at preserving the genetic diversity of species demonstrating resistance towards invasive species or introduced diseases. Separately, if Ontario is extinguishing a broad range of causes of action, Ontario may not be held accountable to protect species at risk. First Nations would have to make a claim related to constitutional remedies to protect species at risk. The lack of mandate for consultation with Indigenous communities is another violation of Ontario's duty to consult.

MSIFN does not fundamentally object to infrastructure projects and the need to advance projects that benefit the greater good. But no decision that may infringe upon our inherent and Aboriginal and treaty rights and territories should be made without



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consensus. Proper consultation requires more than engagement after decisions are made – Indigenous people deserve genuine partnership and mutual respect.

As Chief, and on behalf of our community, I echo the demands made by the Williams Treaty First Nations that call for Schedules 2, 7, 9, and 10 of Bill 5 be withdrawn, that the Ontario government engage in good faith consultation and accommodation, and that any legislative changes be revised in accordance with Section 35 of the Constitution Act, 1982 and its obligations under UNDRIP.

Key points summary:

The key threats from Bill 5 to the Williams Treaties First Nations (WTFN) and our rights and interests:

1. Erosion of Ecosystems Critical to Treaty Rights:

- Urban expansion has already devastated wetlands, fisheries, and biodiversity, impairing WTFN's ability to exercise our Treaty rights to gather and harvest.
- Bill 5 would further degrade ecosystems by removing habitat protections for endangered and culturally significant species, undermining WTFN's ability to access medicines, food, and resources.

2. Weakening of Environmental Protections:

- The repeal of the Endangered Species Act, 2007, and its replacement with the weaker Species Conservation Act, 2025, would:
 - Narrow the definition of habitat, excluding broader ecosystems essential for species survival.
 - Remove prohibitions against harassment of species.
 - Allow harmful activities through an automatic registration system without oversight or consultation.
- This would lead to the decline or extinction of species critical to WTFN's cultural and spiritual practices.

3. Disregard for Cultural Heritage:

- Amendments to the Ontario Heritage Act fail to address systemic issues in archaeological resource management, such as:
 - Delayed consultation with Indigenous communities until late stages of archaeological assessments.



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- Unilateral provincial control over Indigenous artifacts and cultural heritage.
- Lack of recognition of WTFN's inherent rights to manage and protect our heritage, as affirmed by UNDRIP.

4. Exemption of Economic Activities from Legal Protections:

- The Special Economic Zones Act, 2025, proposes exempting designated projects and areas from provincial laws, including municipal by-laws, without checks or balances.
- This framework bypasses consultation requirements and places major economic activities outside the rule of law, threatening WTFN's rights and interests.

5. Failure to Consult and Accommodate:

- Ontario introduced Bill 5 without consulting WTFN, violating its constitutional duty under Section 35 of the Constitution Act, 1982.
- The lack of consultation undermines WTFN's ability to protect their rights and interests, including our Treaty rights and cultural heritage.

6. Unilateral Provincial Control:

- The proposed legislative changes grant broad discretion to the provincial Cabinet to narrow definitions, exempt activities, and control Indigenous artifacts, further marginalizing WTFN's role in decision-making processes.

Sincerely,

Chief Kelly LaRocca