

October 31, 2025

Ministry of Economic Development, Job Creation and Trade
<SpecialEconomicZones@Ontario.ca>

**Re: The Proposed Special Economic Zones Regulation Criteria Do Not Adequately
Protect Indigenous Rights, the Environment or Public Health
ERO #025-1077**

Thank you for the opportunity to comment on ERO #025-1077 – Consultation on Proposed Special Economic Zones Criteria.

The Canadian Environmental Law Association (“CELA”) is a legal aid clinic that has worked with local communities across the province to protect their environment and health for 55 years. CELA remains fundamentally opposed to the *Special Economic Zones Act, 2025*, SO 2025, c 4, Sched 9 (“*Special Economic Zones Act*”) and the proposed approach to creating law-free zones within the province. All Ontarians must benefit from the health and safety of Ontario’s environmental laws. The *Special Economic Zones Act* should be repealed and the proposed regulation should not be passed.

The provincial government has not adequately addressed, through the language in the legislation or this proposed regulation, any of the serious concerns raised about Indigenous rights or the application of environmental and health protections in Ontario. We urge the government to reconsider this approach entirely and ensure that core, basic environmental and health protections apply to everyone.

A. Special Economic Zone Draft Regulation

Section 1 – Special Economic Zones

The criteria proposed in section 1 of the proposed regulation do not provide any limits on the discretion of Cabinet to designate any area of the province as a special economic zone.

Despite constitutional requirements and Indigenous input calling for amendment of the legislation and proposed regulation, there is no clear, legislated requirement to consider the *United Nations Declaration on the Rights of Indigenous Peoples* and free, prior and informed consent.

The concern about inadequate protections for Indigenous rights is amplified by the government of Ontario’s previous statements about designating the Ring of Fire region in Ontario as a special economic zone and current advertisement campaigns for development of mining operations in the Ring of Fire region. The government cannot assume that this region can or should become a

special economic zone before meeting their obligations to consult and accommodate Indigenous rights-holders and before strengthened regulatory criteria are in place.¹

Section 1(1) provides that the area is a “single area of the province”, but there are no restrictions on the number or size of the zones.² There is only an open-ended determination by Cabinet that the area is “no larger than necessary”.³ There are no environmental, safety or health limits on the designation of special economic zones.

Section 1(2) provides discretion to the Cabinet to determine (1) whether activities are taking place or “may in the future take place” in the area, and (2) whether those activities are or will be “economically significant or strategically important” to the Ontario economy.⁴ None of these terms are defined. There is no limit or direction to Cabinet about how to make such determinations.

Section 2 - Trusted Proponents

The proposed language in section 2 provides broad discretion to the Minister and little guidance on how decisions about designations of trusted proponents will be made.

More detail and specificity is needed to guide any determination of the Minister about whether a proposed “trusted proponent” has a “good record of complying with legal requirements” and will contract with persons with good records of complying with legal requirements.⁵ These criteria should include both contraventions of environmental or other regulatory legislation in Ontario, Canada and internationally, but also information about complaints by the public or Indigenous communities about the proponent’s or contractor’s prior record.⁶

The requirements in section 2(3)(iii) should be expanded to explicitly include Indigenous input on whether a proponent has a history of successfully working with Indigenous communities. The current approach would allow the Minister to make this determination, without any requirement for Indigenous input, rather than the impacted Indigenous communities.⁷

Section 3 – Designated Projects

The language of section 3 leaves very broad discretion to the Minister to determine, “in his opinion” whether a project will have “significant long-term economic benefits” for Ontario.⁸ For instance, criteria like “the size and diversification of the economy” and “critical supply chains”

¹ Allison Jones and Liam Case, “Ontario to Make Ring of Fire a special economic zone ‘as quickly as possible’: Ford”, June 5, 2025. Online at <[Ontario to make Ring of Fire a special economic zone 'as quickly as possible': Ford | CBC News](#)>

² *Draft Regulation*, Ontario Regulation to be made under the *Special Economic Zones Act, 2025*, s 1(1) (“*Draft Regulation*”)

³ *Draft Regulation*, s 1(3)

⁴ *Draft Regulation*, s 1(3)

⁵ *Draft Regulation*, s. 2(3)(i) and (ii)

⁶ *Draft Regulation*, s 2(3)(i) and (ii)

⁷ *Draft Regulation*, s 2(3)(iii)

⁸ *Draft Regulation*, s. 3(2)

are not defined and there are no parameters which would transparently guide such determinations.⁹ This determination is made even less transparent by including a criteria that would allow for consideration of “such other factors as the Minister considers appropriate”.¹⁰

Along with consideration of benefits from a proposed project for communities “within the special economic zone and outside the economic zone”, there should be explicit consideration of harms to those communities. Thus, while section 3(3)(iii) examines benefits to Indigenous communities, the harm to Indigenous communities must also be a mandatory consideration. Furthermore, any determination of benefits to Indigenous communities should be determined by those communities, not by the Minister.¹¹

The proposed criteria require only that “the Minister is of the opinion” that work has been done to identify potential impacts on health and the environment, and that risk mitigation strategies have been identified to deal with such impacts.¹² This is a woefully inadequate approach to environmental and health harm and allows for law-free zones in the province where no or minimal environmental or health-based standards will protect our communities. The standards outlined in Ontario’s environmental laws should be applied without exception.

B. CELA’s Recommendations on Amendments to the Proposed Regulation

If the proposed regulation moves forward, which CELA opposes, it should be amended to include the following criteria:

- An assessment of Indigenous rights in any proposed special economic zone and with respect to any designated project.
- Amendment of the legislation and proposed regulation to include explicit reference to application of the *United Nations Declaration on the Rights of Indigenous Peoples* and free, prior and informed consent.
- Appropriate and constitutionally adequate consultation with and accommodation of potentially impacted First Nations must occur before any decisions are made.
- An assessment of the environmental, health, safety and cumulative impacts in any proposed special economic zone or related to any proposed designated project or trusted proponent. No designations should be made in environmentally or culturally sensitive areas.
- If the environment or health of the local community is already degraded because of prior industrial or other activities, or the cumulative impact of additional environmental

⁹ *Draft Regulation*, s. 3(2)(i)

¹⁰ *Draft Regulation*, s. 3(2)

¹¹ *Draft Regulation*, s. 3(3)(iii)

¹² *Draft Regulation*, s.3(4)(iv)

impacts will cause harm to the community, the area should not be eligible to be a special economic zone or to be impacted by a designated project.

- A mandatory requirement for public notice and comment for any decisions made under the *Special Economic Zones Act* or regulations.
- A mandatory requirement for Cabinet and the Minister to consider and explain how public input was considered and how it affected any decisions made under the *Special Economic Zones Act* or regulations. A clear rationale for any decisions under the legislation or regulations must be provided.

C. Issues Raised in the Indigenous Communities Consultation Feedback Which Have Not Been Addressed

CELA recommends that any proposed regulation is not passed prior to incorporation of the feedback listed in the *Consultation on Proposed Special Economic Zones Criteria*. Of particular concern is the decision not to incorporate a restriction on the designation of special economic zones or designated projects in areas of environmental or cultural significance or subject to ongoing land claims.¹³

Any determination of special economic zones, trusted proponents or designated projects must consider social and cultural impacts, cumulative impacts, resource revenue sharing and/or community benefit agreements, and the international records of proponents or proposed contractors on environmental, health, safety and working with Indigenous communities.¹⁴

CELA also supports proposals which have been rejected by the government, and calls on the government to incorporate these proposals into the regulation before they are passed, including:

- Establishing a public registry of proposed and designated projects, proponents and zones
- An appeal process
- Alignment with provincial and federal frameworks
- Ongoing monitoring and evaluation of special economic zones
- Incorporation of regional characteristics into all decision-making, including a determination of the current environmental and health status of any impacted communities.¹⁵

D. The Public is Cut Out of Decision-Making

The public is not being provided with any opportunity to raise concerns about the impacts of proposed special economic zones, trusted proponents or designated projects. Instead, the *Special Economic Zones Act* and the proposed criteria risks imposing environmental, health and cultural

¹³ *Consultation on Proposed Special Economic Zones Criteria*, p 4. Online at < [Indigenous Communities Consultation Feedback](#)> (“Consultation”)

¹⁴ *Consultation*, p 2.

¹⁵ *Consultation*, pp 3-4

harm on local communities without any consideration of their views. The public has a right to know and provide input on decisions that may impact their health and safety, and their communities.

In CELA's long experience working with communities all over the province, environmental decision-making is made much stronger by listening to and incorporating the knowledge and concerns of the people who know and understand their local environments and communities. The proposed approach is likely to yield conflict and frustration by local communities because their voices are being sidelined. More conflict and litigation are likely to result.

E. Conclusion

A law-free approach to development is not in the long-term interests of Ontario and the people who live here. The public, and Indigenous communities, should not be forced to endure potential environmental and health hardship to promote a highly discretionary and controversial view of how our economy should develop without necessary decision-making criteria and safeguards. The government should repeal the *Special Economic Zones Act* and the proposed regulation should not be passed in its current form.

Sincerely,

A handwritten signature in blue ink that reads "Jacqueline Wilson". The signature is fluid and cursive, written in a professional style.

Jacqueline Wilson
Counsel
Canadian Environmental Law Association