

Submitted: Nov 16, 2025
By: EnPointe Public Affairs
Reference: ERO Posting: 025-1077

1. Introduction

EnPointe Public Affairs (“EnPointe”) is pleased to comment on the draft regulations pertaining to qualifying criteria pursuant to the *Special Economic Zones Act, 2025* (the “Act”) passed to support economic growth and development.

Our firm understands from the legislation and extensive consultations that relief may potentially be applicable to proposals that require expediting. These proposals may be impossible to proceed as a result of narrow and inflexible provisions of laws and regulations to development, lands, zoning, environmental prohibitions, and other restrictions contemplated in law(s) in Ontario.

EnPointe is supportive of applying relief or measures of relief to permit rapid approval of projects that correspond to pre-existing provincial priorities including *inter alia* but not limited to:

- (1) Residential housing of all types;
- (2) Commercial and industrial developments;
- (3) Major transportation works and rehabilitation and restorative works to extant transport infrastructure nearing end of life-cycle;
- (4) Improvement or new builds that expand long-term care, retirement, and/or assisted living facilities;
- (5) Child-care, schools, post-secondary, and training institutions;
- (6) Clinical and/or residential and care facilities responding to addictions and mental health care and recovery;
- (7) Infrastructure supporting expansion of electrification, power generation, waste management/reduction, and facilities increasing capacity to manage potable/storm/wastewater systems;
- (8) Projects intended to enable indigenous nations in Ontario to design, control, and assert their nations’ economic sovereignty and independent financial self-reliance;
- (9) Projects that support the safe, sustainable, and viable natural resource(s) exploration, extraction, processing, refinement, and distribution/export;

- (10) Systems that expand commercial, industrial, and resource lines of distribution and can accelerate raw or refined products, services, and/or resources (whether raw or refined) to market; and
- (11) Projects that especially demonstrate non-reliance on public subsidies or relief from development charges or fees to maintain viability.

Our firm cannot understate that the province must demonstrate willingness to approve project types of all orders of magnitude. Large-scale projects comparable to major manufacturing production, energy generation, resource development, ought not to consume all provincial government bandwidth in application, review, and award phases to obtain Special Economic Zone (“SEZ”) status.

All regions and communities in Ontario must have parity in access and opportunity to qualify for SEZ designation up to and including where local opposition may be rely on bald arguments or misinterpretation of existing provincial laws or regulations. While local support is always optimal, many project proposals in Ontario remain long-stalled or non-viable for baseless “Not-In-My-Back-Yard,” (“NIMBY”) sentiments rather than in defensible legal or policy rationales.

As a result, EnPointe is pleased to offer this submission to amend, enhance, and improve designation criteria proposed in the Act’s regulations.

2. Discussion

(1) Overview

EnPointe submits that the province must bear a burden of responsibility as the SEZ designation-granting authority of what exemptions are reasonable for the province to commit to exempting a project. For certainty, this means that while the Minister may be granted broad discretion on what statutory and regulatory regimes may be rendered inapplicable on projects, clear guidance on any “non-starters,” that the province cannot reasonably be expected to modify or rescind should be declared.

Similar to Ministerial Zoning Orders contemplated under the *Planning Act*, an easier methodology may be that SEZ status is accorded once an SEZ Agreement is entered into between the proponent(s) and the province pursuant to the Act.

(2) Projects, Proponents, and Zones

EnPointe must draw attention that the current draft does not currently accommodate economic activities that may have a phased or multi-year timeframe.

EnPointe can point to dozens of proposals explored over the past twenty (20) years across the province that, in earlier years, were viable and capable of being “shovel-ready” in a singular development exercise.

In 2025, projects may now need to be phased over several years due to significant rises in interest rates, cost(s) of raw materials, high demand for and undersupply of qualified professionals to design, build, and complete projects. Further, new constraints around financing and safe, reliable, and credible foreign collaboration in projects have become harder to secure for Canadian proposals. The current language in the proposed drafts do not appear to afford measures of accommodation or deference to proposals that may require supplementary time and space to make multi-phased projects viable.

The government may wish to broaden SEZ designation to contemplated “permitted activities and uses,” that remain exempt from normal processes provided that they correspond reasonably to concept(s) submitted by a proponent when seeking designation within a proposed zone.

An additional consideration to the point above is that proponents have an appeal or reconsideration avenue(s) if twenty-four (24) or (36) months from the date SEZ designation is accorded, modifications may need to occur. This control measure permits flexible response if economic and trade conditions alter drastically. It would further prevent future constraints for what was not contemplated in the preliminary period when SEZ applications will be or were originally approved.

(3) **Proposed Project Criteria**

EnPointe agrees and supports the general approach as currently stipulated on:

- 3.1 Significant and Long-Term Economic Benefits for Ontario;
- 3.2 Strengthening Local Communities;
- 3.3 High Likelihood of Success; and
- 3.4 Duty to Consult and, where Appropriate, Accommodate.

(4) **Proposed Proponent Criteria**

EnPointe agrees and supports the general approach, save where indicated on sections 4.2 and 4.4 as articulated below:

- 4.1 Necessity;
- 4.2 Team Composition

EnPointe cautions that the well of professionals with long-term experience and track-records of working with Indigenous nations is shallow. The absence of same initially should not act as a limiting or exclusionary factor if a proponent can otherwise demonstrate a sound consultative and collaborative approach with impacted Indigenous nations.

4.3 Reputable Compliance Record

4.4 Duty to Consult and, where Appropriate, Accommodate

EnPointe would qualify that the duty consult cannot be an endless exercise pursuant to recent jurisprudence from the Supreme Court of Canada on large-scale energy projects in western provinces. Further clarity or baselines from the province are necessary to ensure that proponents are not, in their sole and absolute prerogative, to be expected to interpret and de-conflict existing Aboriginal and treaty rights in isolation and assume sole legal liabilities or risks on same.

4.5 Engagement Plan

(5) **Proposed Zone Criteria**

EnPointe supports and has no additional comments on this consideration so long as Duty to Consult and, where Appropriate, Accommodate feature guardrails and limitations to prevent project stall and unreasonable delay(s).

(6) **EnPointe Reply to Discussion Questions**

6.1 **Project Criteria**

6.1.1 Question 1: Creating a new Special Economic Zone is meant to be used only for a narrow set of circumstances when it is of the utmost importance to Ontario's economy and/or security. What criteria could be considered to ensure designation is only used in the most appropriate cases?

EnPointe reply: Our firm submits respectfully that this declaration is counterintuitive. The list of provincial priorities that have been classified or characterized as exigent or urgent is expansive. To assist in this regard, criteria may stipulate that, on application, a proponent will be given higher consideration if the following can be demonstrated:

6.1.1.2 For how long has the project been proposed?

6.1.1.2 What specific statutory and/or regulatory constraints have existed preventing approval(s) and can the proponent adduce evidence of attempting to resolve the matter via normal approval channels without result?

6.1.1.3 Does the project, regardless of scope, correspond with provincial economic, social, environmental priorities?

6.1.1.4 In the case of provincial not local laws, regulations, and/or policies preventing approval of a proposal, if the local municipality supports exemption, this consideration should elevate an application's standing.

6.1.2 Question 2: The importance of a zone or project is not always measured only in size or dollar value. How else should the impact of a zone or project be considered?

EnPointe reply: projects should be assessed on a key non-renewable reality: time. How long has a project been ineligible for approval and how greatly has that aggravated the deficiency/ deficiencies against provincial priorities in housing, commercial and industrial development, resource activities, etc..., should influence SEZ designations.

6.1.3 Question 3: Should potentially important 'moon-shot' projects be put forward if they could have enormous impact, even if they have a low likelihood of success?

EnPointe reply: this is where phasing is appropriate and the degree of public subsidy and/or funding should be assessed. Projects that are assessed in 2026 as unlikely to succeed may be assessed under factors that may rapidly change. The province should consider permitting "high-risk" projects the opportunity to counter with "beta" or "pilot" projects that attempt to establish a narrower start for viability without the province assuming vast risk without a discernible public-interest return.

6.1.4 Question 4: Which should be weighted more heavily when considering benefits - the benefit to the province as a whole or the benefit to local communities? Or should they be treated as equally important and essential?

EnPointe reply: the province is the superior policy-setting authority and should take precedence. This stated, if projects conform to tests of employment generation, expanding the local tax assessment base, and contribute to municipal funding on a net increase basis, local considerations could be accommodated to the reasonable extent possible.

6.1.5. Question 5: Designating a zone, project, and proponent requires specific new regulations. Furthermore, any regulatory modifications or exemptions that may be made for projects and proponents in a designated zone will also require a new regulation. Normal regulatory processes will be followed, including posting on the ERO and Regulatory Registry. What else could be considered to provide greater transparency.

EnPointe reply: similar to what has occurred in the Ministry of Municipal Affairs and Housing domain, the province should clearly articulate process to prospective proponents. This includes but is not limited to:

6.1.5.1 Pre-consultation

The Ministry should have designated personnel available to provide a pre-consultation within thirty (30) days to a proponent who can demonstrate completion of pre-requisite items

6.1.5.2 Review Process

The Ministry should take no longer than sixty (60) days from date of submission to preliminary decision. Where an application may demonstrate omissions or require amendment, the province should grant up to sixty (60) further days for the proponent to rectify and resubmit with the province taking no longer than an additional thirty (30) days to review and decision the amended application

6.1.5.3 Decision and Agreement to be Entered Into

The Ministry issues decision and takes twenty-one days to create an Agreement to be Entered Into that forms the basis of the Regulation and posted on agreement with the proponent for posting on required Registries for the thirty (30) day posting period after which barring a review of any postings in reply, the Regulation is in force on the thirty-first (31st) day after posting.

6.1.5.4 Total Time

The total time from pre-consultation to Regulation in force, without any amendment following initial review is one-hundred and forty-one (141) days or twenty (20) weeks.

EnPointe further represents that any process lengthier than this timeline runs a strong likelihood of seeing project abandonment for delays. If seeking SEZ designation is meant to accelerate approvals by granting relief it defies credulity should it not reduce approval timing by two-thirds (2/3rds or 67%) from normal processes.

6.2 Proponent Criteria

6.2.1 Question 6: What should be used whether compliance standards are met? Which compliance records from records from Ontario, Canada, or internationally should be provided as evidence? Over what time period? What other requirements should there be for proponents?

EnPointe reply: Compliance standards should be established by the qualified professionals and/or subject matter experts submitting qualified opinions pursuant to their regulatory standard in the province, e.g: engineers, architects, ecologists, etc..., Where compliance standards are suggested that fall below current Ontario standards, than results from a comparable jurisdiction must be demonstrated within the past fifteen (15) years where success and no negative impact(s) has/have been demonstrated. Also, expensive and costly peer-reviews should be eliminated unless error or omission is identified by the province during the review period. Similar to provisions in Bills 5 and 17, if professionals attest to the accuracy and completeness of required reports and professional opinions, such submissions should be acceptable and not require endless review.

6.2.2 Question 2: What, if any, special considerations should be given to whether companies from other jurisdictions an be designated as trusted?

EnPointe reply: that if involved in an Ontario project can demonstrate no regulatory non-compliance in any other Canadian province, has not been convicted of any criminal,

regulatory or tax offence(s) provincially or federally, and has not been either in the United States or the European Union or other economic alliance association nations.

6.3 Zone Criteria

EnPointe has no additional comments to add on Zone criteria.

3. Conclusion

EnPointe Public Affairs remains available to the Ministry to proffer further amendment language and assist with regulatory optimization.

Our firm and clients welcome finalization of this proposal.

EnPointe would reiterate its endorsement of designating Special Economic Zones and trusts the province will move with urgency to bring the final regulatory regime(s) into force.

Submitted respectfully,

ENPOINTE PUBLIC AFFAIRS
122 Edward Street
St. Thomas, ON N5P 3K9
Research@EnPointePA.ca