

November 6, 2025

Species at Risk Branch
Ministry of the Environment, Conservation and Parks
40 St. Clair Ave West
Toronto, ON
M4V 1M2

Re: [ERO 025-0908](#) – Developing guidance on section 16 activities under the Species Conservation Act, 2025

We, the 87 undersigned organizations, submit the following comments and recommendations on the proposal for developing guidance on section 16 activities under the *Species Conservation Act, 2025* (SCA).

We reiterate our objection to the replacement of the *Endangered Species Act, 2007* (ESA) with the far weaker SCA as noted in our submission on [ERO 025-0380](#), which was not adequately addressed or responded to when the Government of Ontario proceeded to pass Bill 5. Ontario's at-risk species need more protections, not less, in the midst of a biodiversity crisis.

This proposal to develop guidance on section 16 activities under the SCA will not fulfill the purpose of the Act "to provide for the protection and conservation of species while taking into account social and economic considerations, including the need for sustainable economic growth in Ontario". Without a robust, evidence-based approach to defining habitat under the SCA, any guidelines developed will not be sufficient for assessing whether an activity is likely to have an impact to a protected species or species' habitat.

Guidelines under the ESA outlined key terms, guiding principles and considerations to be made when determining whether a proposed activity would damage or destroy habitat. Similarly, the current proposal is to develop guidelines under the SCA to assess whether an activity is likely to have an impact to a protected species or species' habitat. The key difference between the two Acts in respect to this proposal is the definition of habitat.

Under the [ESA prior to the passing of Bill 5](#), habitat was defined as:

- a) with respect to a species of animal, plant or other organism for which a [regulation](#) made under clause 56 (1) (a) is in force, the area prescribed by that regulation as the habitat of the species, or
- b) with respect to any other species of animal, plant or other organism, an area on which the species depends, directly or indirectly, to carry on its life processes, including life processes such as reproduction, rearing, hibernation, migration or feeding,

and includes places in the area described in clause (a) or (b), whichever is applicable, that are used by members of the species as dens, nests, hibernacula or other residences.

The ESA guidelines for assessing impact considered the activity details, the areas of habitat likely to be altered by the activity, and most importantly, how alteration could affect the species' ability to carry out its life processes. As already highlighted in our submission on [ERO 025-0380](#), the redefining of habitat under the SCA to just immediate dwellings like dens, nesting sites, or the critical root zone, will remove protections from large areas of habitat upon which species depend for survival.

We understand the Ministry is looking for input on:

- specific aspects of the previous policies and technical direction that you would suggest retaining, updating, or removing
- which components of the proposed guidance would be of greatest interest or value to you or your organization
- which species groups would most benefit from detailed habitat guidance
- any other advice or feedback you would like to share about guidance that would be helpful

However, with these fundamental differences in defining habitat, it is unclear how such guidance can actually be applied in a way that benefits species conservation. To determine the possible impact of an activity, it is necessary to determine risk to survival of the species and habitats in question, as was included in guidelines under the ESA. It is not possible to determine risk to survival of a species with any degree of certainty if all habitats required for their survival are not being considered in the assessment.

The approach to defining habitat that existed under the ESA was robust, and evidence-based. Before any guidelines can be developed for assessing the impact of activities on a protected species or species' habitat under the SCA, the definition of habitat under the Act must be revisited.

We also want to note that while ESA habitat definitions and related guidelines for assessing impact were robust, ESA implementation was not sufficient. This was clear in many of the Auditor General's findings in their [Protecting and Recovering Species at Risk](#) report in 2021. Particularly the findings that the total number of species at risk had risen by 22% between implementation of the ESA in 2009 and 2020, as well as the finding that no permit requests allowing harmful activities had ever been denied. It is clear a new approach to species at risk management in Ontario is needed, but the far weaker SCA is not the answer.

We reiterate our overall objection to the replacement of the ESA with the weaker SCA and highlight the following overall recommendations for species at risk management in Ontario:

1. Apply a robust, evidence-based approach to defining habitat, as was done under [ESA prior to the passing of Bill 5](#)
2. Reduce reliance on discretionary powers related to listing and avoid exemptions to habitat protections
3. Ensure a listing and recovery approach based on science and Indigenous knowledge
4. Enforce reasonable timelines for species listing and habitat protections

Ontario Nature and its partners have been leaders on species at risk ecology and monitoring for decades, and are available to provide expertise on various taxa including plants, [birds](#), [reptiles and amphibians](#). We are ready to work with the Government of Ontario to strengthen protections for our most vulnerable species for the long-term well-being of Ontario's ecosystems and future generations.

Sincerely,

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