BIIGTIGONG NISHNAABEG

Nov. 16, 2025

To: Nathan Hammill, A/Manager, Strategic Engagement Unit, Ministry of Economic Development, Job Creation and Trade, nathan.hammill@ontario.ca
CC: Review team for the proposed Special Economic Zones Criteria, SpecialEconomicZones@Ontario.ca

Mr. Hammill,

Re: Biigtigong Nishnaabeg Comments on the proposed Special Economic Zones Criteria.

Enclosed please find the response of Biigtigong Nishnaabeg (formerly the Ojibways of Pic River First Nation) to the Environmental Registry of Ontario (ERO) posting concerning proposed Special Economic Zones (SEZ) Criteria.

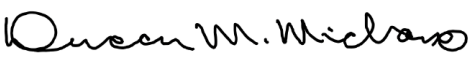
Biigtigong Nishnaabeg understands that this ERO posting is being undertaken in response to Schedule 9 of the *Protect Ontario by Unleashing our Economy Act, 2025*. The attached **Comment Disposition Table** outlines Biigtigong Nishnaabeg's review, comments, concerns and required next steps with respect to the proposed Special Economic Zones Criteria, including consideration of the Draft Policy Intent for SEZ Criteria and Guiding Questions, the Indigenous Communities Consultation Feedback, and the SEZ Draft Regulation (Designation Criteria).

Please note that while we are providing comments on the SEZ Criteria specifically, we would also like to reiterate once again to the Government of Ontario the following with respect to the *Protect Ontario by Unleashing our Economy Act, 2025*:

1. Biigtigong Nishnaabeg is not a signatory to the Robinson Superior Treaty of 1850 and has filed a claim for Aboriginal title in the Ontario Superior Court of Justice (court file no. CV-07-018). Biigtigong Nishnaabeg is currently in settlement negotiations with both Canada and Ontario regarding this claim. By asserting Aboriginal title, Biigtigong Nishnaabeg has given notice to the Crown that it has never ceded its lands, or agreed to share its lands, through the signing of a treaty.
2. Biigtigong Nishnaabeg reiterates the strong opposition, as expressed by the Chiefs of Ontario, to Ontario's recently passed Bill 5, citing its failure to respect the constitutional and treaty rights of First Nations. The legislation, which fundamentally weakens environmental and cultural protections and reduces consultation requirements with First Nations, is a direct violation of the Government of Ontario's obligations to uphold the honour of the Crown.
3. Biigtigong Nishnaabeg reiterates the concerns expressed to Hon. Doug Ford in its letter of May 15, 2025 with respect to Bill 5, *Protect Ontario by Unleashing our Economy Act, 2025*.
4. Failure to address any of our stated concerns with respect to how the changes enacted impact our Aboriginal Title rights will be viewed by Biigtigong Nishnaabeg as the Crown's failure to fulfill the Duty to Consult.

I look forward to your response to this correspondence.

With Respect,



Duncan Michano, Chief of Biigtigong Nishnaabeg

Cc: JoAnne Michano, Band Manager, Biigtigong Nishnaabeg, joanne.michano@picriver.com
Juanita Starr, Director, Sustainable Development, Biigtigong Nishnaabeg, juanita@picriver.com
Dustin Seguin, Seguin Law, dseguin@seguinlaw.ca
David Carruthers, PlanLab, david@planlab.ca
Tracy Zanini, Sociality Consulting Inc., tracy.zanini@sociality.ca

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Criteria for the Designation of a "Special Economic Zone" - The criteria for the designation of a special economic zone is overly vague – simply requiring it to be an area in the province, where significant economic activities are taking place, and the area is "no larger than necessary". As written, the criteria could be applied to all existing resource-extraction sectors in Ontario including mining, aggregates, and forestry. These resources are already being taken from both unceded Aboriginal title lands (such as Biigtigong Nishnaabeg's unceded Aboriginal Title Territory) and other lands covered by treaties. These resources are often taken without the free, prior and informed consent of the First Nations in whose territory the resource lies. The economic benefit from those resources rarely, if ever, remains in the local community or local economy and very rarely benefits the host First Nation. The overly vague criteria for designation all but ensures that any area with potential for mining, aggregates or forestry could be designated a "special economic zone". With designation powers being held exclusively by the Lieutenant Governor in Council – with no means for local input or influence over decision-making – there is a great risk that First Nations could suddenly see vast swaths of their territory provincially designated for economic use and benefit – such a designation would obliterate the values and plans a First Nation may have for its territory, be it for the continued exercise of constitutionally protected Section 35 rights, or for historical, cultural, ceremonial, environmental, community development, or tourism purposes. Existing provincial policies already work towards this end as leases, licenses, permits and approvals are issued for projects without First Nations input or influence over such decision-making. These decisions have fundamental impacts on the lands and resources which are relied upon for the exercise of rights. The designation of Special Economic Zones will only serve to exacerbate this problem and further impact upon First Nations rights and interests. The regulatory posting indicates that "by default, all laws apply in a special economic zone. Any modifications or exemptions to provincial laws within special economic zones will be made on a case-by-case basis through future regulations." This sets an extremely dangerous precedent whereby the government is fundamentally weakening the vital foundation of the rule of law by stating that – when the economic benefit is significant enough – laws just won't apply. Put another way, the almighty dollar trumps the rule of law. In identifying "zones" where laws won't apply, Ontario is tearing holes in the jurisdictional and legal fabric of the province – creating a de facto "wild west" of economic development at all costs. If the intent of designation is to help expedite development and economic growth, why not focus on improving government regulatory processes rather than stripping them outright? Focus this effort on specific projects that require specific regulatory regimes, rather than removing laws and regulatory oversight for entire geographic	Biigtigong Nishnaabeg recommends that Ontario forgo the designation of "special economic zones" and instead focus on identifying and designating specific ***projects*** that are likely to meet strategic and economic objectives that will ensure a robust and protected Ontario economy. These projects should be selected based on business viability, economic potential, and the highest of standards for human health and safety, environmental protection and the protection of First Nations rights and interests. These projects must also be required to guarantee local employment and economic benefit for the short-, medium- and long-term, as applicable. First Nations participation in these projects should be a mandatory requirement for designation.

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"zones". Determine ways to improve the regulatory process leveraging best practices and available technologies. This will be vital as not every project or activity in a "zone" will be the same and therefore, not every project or activity would require the same regulatory supports. In the extreme example where an exemption would be required, that exemption should be made on a case-by-case basis – specific to a project – not to a whole geographic area. By focusing on the project and not the "zone", Ontario could work to ensure Duty to Consult obligations are met and that proponents do not take advantage of or abuse privileges under any regulatory amendments that have been granted to them. By focusing on the project, Ontario can ensure proponents must apply to have their projects become "designated" and in that application process, the proponent will have to demonstrate how it will meet specific prescribed criteria and benchmarks. Such a project focus will allow for more specific oversight and assurances that the project will meet appropriate thresholds for human health and safety, environmental protection – including cumulative effects considerations – and the protection of the rights and interests of First Nations.	
Criteria for the Identification of "Trusted Proponents" – The proposed regulation indicates that provincial ministries, Crown Corporations and municipalities will receive trusted proponent designations without needing to provide the same evidence as business proponents related to health and safety, environmental protections, employment standards, financial matters, and Indigenous engagement. This is highly concerning as Ontario would be giving itself and related jurisdictions a "free pass". Without clear standards, different government ministries, Crown Corporations and municipalities will develop projects in vastly different ways. Not all government ministries, Crown Corporations and municipalities conduct their business in the same manner. Biigtigong Nishnaabeg has experienced firsthand how different government ministries, Crown Corporations and municipalities fulfil obligations (or fail to fulfil obligations) under the Duty to Consult in differing ways. Common standards must be outlined for government proponents. These standards must take into consideration the higher standard of obligation the Crown holds with respect to the protection of the rights and interests of First Nations under Section 35 of the *Constitution Act, 1982*. Additionally, any regulations concerning proponents of activities need to be tailored to recognize that government proponents and projects brought forth by government proponents will be very different from business proponents and projects being brought forth by business proponents. The outcome of a business-led project is almost always pure economic benefit for the private business entity and its shareholders. The outcome of a government-led project is more often designed for the broader public good. These projects and these proponents cannot be treated the same. First	Biigtigong Nishnaabeg recommends that Ontario forgo the designation of "trusted proponents" – it is an unnecessary label that implies such proponents are infallible. Instead focus should be placed on the ***process*** for holding any and all proponents of identified projects to the highest standards for human health and safety, environmental protections and the protections of First Nations rights and interests. Ideally, projects should be led by local proponents – including special focus on First Nation proponents – so as to ensure the economic benefits of projects remain in Ontario and thereby serve the ultimate goal of bolstering Ontario's economy. Standards that proponents will be required to meet must be clearly identified. Distinct standards and processes should be identified and

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Nations engagement in a business-led project versus a government-led project will also be vastly different. The process for each needs to be customized to recognize and reflect those differences and such customization must occur with the guidance and input of First Nations. A further challenge with the identification of "trusted proponents" is that often with significant projects – like the development of a mine – the proponent that initiates the project is not often the proponent that carries the project through development to completion. The regulation does not outline the process that would be followed if a project were to be initiated by a "trusted proponent" and then sold to another proponent who may not have evidence of the same high standards as the initial "trusted proponent". The regulation also fails to speak to the process to be undertaken should a "trusted proponent" engage in an action that results in an environmental incident or a health and safety violation. Would a proponent lose its "trusted" status? Would they be required to undertake a process to regain "trusted" status? What would happen with respect to the project initiated by the proponent, should they lose their "trusted" status? Without such certainty, it is extremely risky to apply the term "trusted" to any proponent. The regulation also relies solely on the "opinion of the Minister" that the proponent has "a good record of complying with legal requirements, including requirements relating to health and safety protections, environmental protections, employment standards and financial matter" and that the proponent "has a plan for engaging and working with Indigenous communities" and a record of successful work with Indigenous communities. No specific reference is made to what "legal requirements" or other standards the proponent would be measured against. Who would determine what a successful record of Indigenous engagement looks like? Oftentimes a proponent's perspective on the success of a consultation efforts is vastly different from a First Nation's standard for consultation and engagement. Such ambiguity leaves room for subjectivity in the identification of "trusted proponents" raising significant concerns from a transparency and good governance perspective and leaving room for serious gaps in consultation and engagement of First Nations. Additionally, the focus on consultation and engagement stops short of identifying and addressing the more pressing concern of avoiding, mitigating and accommodating impacts to First Nations constitutionally protected Section 35 rights and interests. This consideration must be included and reflected in regulation. No mention is made of the consideration of local proponents or First Nation proponents. If regulations such as this one are being contemplated in an effort to bolster the Ontario economy,	developed for government proponents versus business proponents. A procedure and protocol for all proponents must be developed that speaks to the consultation, engagement and accommodation of First Nations in project development. Clear proponent obligations should be identified with respect to avoiding, mitigating and accommodating impacts to First Nations constitutionally protected Section 35 rights and interests.

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then the focus of such regulations should be on lifting up local business, including local First Nation businesses. As written, this regulation could be applied to foreign proponents, further ensuring economic benefit from projects in Ontario flow outside of Ontario's borders and into the pockets of foreign shareholders and investors.	
Criteria for "Designated Projects" – As noted above, Biigtigong Nishnaabeg recommends that Ontario forgo the designation of "special economic zones" and instead focus on building a robust system for identifying and designating specific ***projects*** that are likely to meet strategic and economic objectives that will ensure a robust and protected Ontario economy. These projects should be selected based on business viability, economic potential, and the highest of standards for human health and safety, environmental protection and the protection of First Nations rights and interests. These projects must also be required to guarantee local employment and economic benefit for the short-, medium- and long-term, as applicable. First Nations participation in these projects should be a mandatory requirement for designation. Participation does not mean consultation. Participation means an active role in the operation of the project through project design, partnership and contracting opportunities. Benefits of the project for the province as a whole should be a secondary consideration to the benefits of the project for the local community and more specifically for the local host First Nation in whose territory the project is located. For too long the benefits of resources, taken from First Nations lands, have flowed to outside third parties. Ontario's economy needs to be bolstered at the local level. When local economies thrive, so too does the provincial economy. By focusing on the local benefits, this will also allow for more rigor to be applied to consideration of potential negative local impacts, including contributions to local cumulative effects of projects within the proximate vicinity. The draft regulation currently identifies that projects can be designated based on "such other factors as the Minister considers appropriate". The regulation needs to be much more prescriptive so as to take away ambiguity and provide for more certainty and transparency both for project proponents and local communities. Projects needs to be selected on mandated criteria, not political whims. Projects that meet prescribed criteria for business viability, economic potential, and the highest of standards for human health and safety, environmental protection and the protection of First Nations rights and interests should then be eligible for expedited regulatory approvals processes. To be	As noted above, Biigtigong Nishnaabeg recommends that Ontario forgo the designation of "special economic zones" and instead focus on building a robust system for identifying and designating specific ***projects.*** These projects should be selected based on business viability, economic potential, and the highest of standards for human health and safety, environmental protection and the protection of First Nations rights and interests. First Nations participation in these projects should be a mandatory requirement for designation. This participation should involve an active role in the operation of the project through project design, partnership and contracting opportunities. Benefits of the project to the local economy should be paramount over benefits to the broader province. Prescriptive criteria needs to be outlined in the regulation, rather than relying on the opinions of the Minister. Such criteria needs to focus on business viability,

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clear, expedited regulatory processes does not mean applying regulatory exemption to projects and proponents. In the extreme example where an exemption would be required, that exemption should be made on a case-by-case basis – specific to a project and should be made following full consultation with First Nations and the local community. The current regulatory approach is a back-and-forth process of trying to get proponents to improve their projects to meet a certain regulatory standard. If proponents want their project to be identified as critical for the Ontario economy – thereby communicating to their investors a measure of risk reduction and positive investment potential – then proponents should be required to design their projects up-front to meet specified criteria. Engagement and partnerships with local First Nations from the start should be a mandatory requirement to ensure project designation and associated expedited regulatory approvals.	economic potential, and the highest of standards for human health and safety, environmental protection and the protection of First Nations rights and interests on order for projects to be designated and thereby eligible for expedited regulatory approvals processes. Engagement and partnerships with local First Nations from the start of a project should be a mandatory requirement.