



City of Hamilton Report for Consideration

To: Mayor and Members
Planning Committee

Date: July 8, 2025

Report No: PED25181

Subject/Title: Comments in Response to Bill 5, *Protect Ontario by Unleashing Our Economy Act*, 2025

Ward(s) Affected: (City Wide)

Recommendations

- 1) That Council **ENDORSE** the submissions and recommendations attached in Appendix A to Report PED25181 regarding Environmental Registry of Ontario Posting Nos. 025-0380, 025-0391, and 025-0418.
- 2) That the Director of Planning and Chief Planner be **DIRECTED** to confirm the submissions and recommendations made to the Province resulting from Council's review and decisions on Report PED25181.

Key Facts

- The purpose of this report is to inform Planning Committee and Council of City staff comments and recommendations that were submitted to the provincial government on May 16, 2025, as it relates to Bill 5, *Protect Ontario by Unleashing Our Economy Act*, 2025 and the associated Environmental Registry of Ontario postings.
- The report recommends that Council endorse staff's submission to the Province and that staff notify the Province of any changes or additional comments that result from Council's consideration.
- Bill 5 received Royal Assent on June 5, 2025.
- While staff are supportive of the Government of Ontario's objective to support the Province's economy through rising economic uncertainty, staff have concerns with

elements of the legislation, including the exclusion of respectful participation of First Nations in archaeological assessments and the potential impacts and species loss through the repeal of the *Endangered Species Act, 2007*, and the enactment of the new *Species Conservation Act, 2025*.

Financial Considerations

There are no anticipated financial impacts with the recommendations of this report.

Background

On April 17, 2025, the provincial government introduced Bill 5, the *Protect Ontario by Unleashing our Economy Act, 2025* ("Bill 5") which contained 10 separate schedules proposing to modify the *Electricity Act, 1998*, *Endangered Species Act, 2007*, *Environmental Assessment Act, 1990*, *Environmental Protection Act, 1990*, *Mining Act, 1990*, *Ontario Energy Board Act, 1998*, *Ontario Heritage Act, 1990*, and *Rebuilding Ontario Place Act, 2023*. The legislation also proposed two new acts, the *Special Economic Zones Act, 2025* and the *Species Conservation Act, 2025*.

On the same day, the Government of Ontario requested comments on specific aspects of Bill 5 through the Environmental Registry of Ontario with a deadline for comments of May 17, 2025. Staff-level comments contained in Appendix A to Report PED25181 were submitted to the Province on May 16, 2025.

Following the close of the comment period, the Province indicated they would be introducing new amendments to Bill 5 that would address the constitutional duty to consult with Indigenous communities and establish Indigenous-led economic zones. Ultimately, these proposed amendments were not made to Bill 5, which passed its third and final reading on June 4, 2025, and received Royal Assent on June 5, 2025.

Analysis

A summary of Environmental Registry of Ontario Postings 025-0380, 025-0391, and 025-0418 can be found below along with a summary of the principal comments submitted by staff. Appendix A to Report PED25181 contains all staff comments submitted to the Environmental Registry of Ontario.

Environmental Registry of Ontario Posting No. 025-0380 – Proposed interim changes to the *Endangered Species Act, 2007* and a proposal for the *Species Conservation Act, 2025*

The Province sought input on proposed interim amendments to the *Endangered Species Act, 2007*, the eventual repeal of the *Endangered Species Act, 2007*, and the enactment of the new *Species Conservation Act, 2025*. The legislation would, among other things:

- Amend the purpose of the Endangered Species Act, 2007 as well as several definitions within the Act, including the definition of “habitat”.
- Remove the requirement to create a regulation once a species has been listed.
- Remove the requirement to create recovery strategies and management plans.
- Shift nearly all species-related authorizations to a registration-first approach.

Staff are of the opinion that the current *Endangered Species Act, 2007* has not been a barrier to development in the City of Hamilton and are not supportive of the creation of the new *Species Conservation Act, 2025*, as it will:

- Undermine successful species recovery efforts within the province as a whole, as well as within Hamilton;
- Undermine the intent of Provincial and Municipal Strategies (i.e. Ontario Biodiversity Strategy, Hamilton’s Biodiversity Action Plan, Hamilton’s Urban Forest Strategy) as well as Provincial requirements (policies in Section 4.1 of the Provincial Planning Statement); and,
- Increase species loss within the Province and Hamilton.

Environmental Registry of Ontario Posting No. 025-0391 – *Special Economic Zones Act, 2025*

The Province sought input on the proposed *Special Economic Zones Act, 2025* which would:

- Grant the Provincial government power to designate geographic areas as Special Economic Zones and identify vetted projects and trusted proponents within those zones if certain criteria are met.
- Allow the Provincial government to exempt a trusted proponent or designated project within a Special Economic Zone from requirements under an Act, regulation, or other instrument under an Act, including by-laws of a municipality or local board.
- Allow the Provincial government to modify the provisions of an Act, regulation, or other instrument under an Act, for designated projects or trusted proponents within a Special Economic Zone.

While the legislation would provide the Province with another tool to respond to economic threats and facilitate economic development opportunities, additional information is necessary to understand how a Special Economic Zone would be implemented before the City of Hamilton concludes its comments on the legislation. City staff have concerns that the legislation could result in unintended consequences including issues related to public infrastructure and facilities, land use compatibility, municipal finances, natural heritage, planning for a changing climate and protection of archaeological resources, among others.

City staff have concerns that the legislation's ability to 'override' other Provincial legislation, regulations and municipal by-laws could result in unintended consequences and is a move away from Ontario's planning policy framework established through the Provincial Planning Statement, 2024. This can include unintended issues related to public infrastructure and facilities, land use compatibility, municipal finances, natural heritage, planning for a changing climate and protection of archaeological resources, among others.

In preparing the associated regulations within the Act, City of Hamilton staff encourage the Province to establish clear rules on when, where, and how these Zones and trusted proponents would be selected and that the process include rights holders and municipal collaboration. Without clearly defined criteria, it will be difficult for the City to plan for any changes or to complete proactive work.

Specifically, with respect to archaeological resources, City of Hamilton staff note that archaeological assessments are a core feature of First Nations engagement. If site alteration is exempted from archaeological assessment, Indigenous Historical Sites may be destroyed and changes may also cause a loss of significant natural areas and hunting lands which are a Treaty and Aboriginal right protected by Section 35 of the Canadian Charter of Rights and Freedoms, which the Province has a duty to uphold. If archaeological requirements are to be removed within the Special Economic Zones, clarification will be needed regarding how these exemptions will conform with Section 35 of the Canadian Charter of Rights and Freedoms.

Following the submission of staff comments to the Environmental Registry of Ontario, the Province has indicated that they would introduce amendments to Bill 5 that would add provisions related to the provinces' duty to consult and make the regulations under Bill 5 consistent with Section 35 of *the Constitution Act*. The Province also indicated that the amendment would introduce Indigenous-led Economic Zones. Ultimately, these proposed amendments were not made to Bill 5, which received Royal Assent on June 5, 2025.

Environmental Registry of Ontario Posting No. 025-0418 – Proposed Amendments to the *Ontario Heritage Act*, Schedule 7 of the *Protect Ontario by Unleashing our Economy Act*, 2025.

Schedule 7 of Bill 5 proposed legislative amendments to the *Ontario Heritage Act* that changes the enforcement and compliance procedures related to the inspection and protection of artifacts and archaeological sites. The legislation would also allow for the exemption of properties from archaeological conservation requirements outlined in Part VI of the *Ontario Heritage Act* or any other Act, regulation, or instrument other than the *Funeral, Burial and Cremation Services Act*, 2002.

Staff support expanding regulations and options to permit the depositing of artifacts with an Indigenous community. Staff also support clear mechanisms through which assessments may be issued and the inclusion of language which offers clear stop work directives for proponents.

However, staff are not supportive of the amendments that would allow a property to be exempted from archaeological assessments without consultation or consideration of the cultural heritage value or interest of a property. Allowing for the exemption of properties from the requirements of Part VI of the *Ontario Heritage Act* risks the destruction of historic sites and the removal of the Ministry's and Municipality's ability to intervene in cases where archaeological materials may need to be further investigated.

Furthermore, staff are concerned the legislation will exclude respectful participation of First Nations in archaeological assessments and would result in degradation of Indigenous historical sites and potential for loss of important cultural history.

Next Steps

Staff will continue to provide updates to Council on matters related to Bill 5, including the release of regulations associated with the creation of Special Economic Zones. If the recommendations of this Report are approved by Council, the Director of Planning and Chief Planner will notify the Province that the submissions made have been adopted by Council and of any changes as a result of Council's consideration of the matter.

Alternatives

Council may amend the staff-level comments attached as Appendix A of Report PED25181 or supplement the staff-level comments with additional comments.

Relationship to Council Strategic Priorities

Priority 1 - Sustainable Economic and Ecological Development
Priority 2 - Safe & Thriving Neighbourhoods.

Consultation

Staff from within the Planning Division, the Office of Climate Change Initiatives, Economic Development Division, Indigenous Relations Office, and Public Works Department were consulted in the drafting of this report and appendices.

Appendices and Schedules Attached

Appendix A: City of Hamilton Staff Submission for Environmental Registry of Ontario
Postings 025-0380, 025-0391, and 025-0418

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