



City of Hamilton Report for Consideration

To: Mayor and Members
Planning Committee

Date: January 13, 2026

Report No: PED25181(a)

Subject/Title: City of Hamilton Comments in Response to
Proposed Regulations Under *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 B, C, D and E to Report PED25181(a) regarding Environmental Registry of Ontario Posting Nos. 025-0908, 025-0909, 025-1077, and 025-1081; and,
- 2) That the Director of Planning and Chief Planner be **AUTHORIZED** and **DIRECTED** to confirm the submissions and recommendations made to the Province resulting from Council's review and decisions on Report PED25181(a).

Key Facts

- The purpose of this report is to inform Council of staff comments and recommendations that were submitted to the Province on November 10, 2025, as it relates to regulations under 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/or that staff notify the Province of any changes or additional comments that result from Council's consideration.

Financial Considerations

There are no anticipated financial impacts with the identified recommendations. Staff will continue to monitor the implementation of the legislation to determine any further financial considerations.

Background

On June 5, 2025, Bill 5, *the Protect Ontario by Unleashing our Economy Act, 2025* (“Bill 5”) received Royal Assent. The legislation proposed to modify the *Endangered Species Act, 2007*, *Environmental Assessment Act*, *Environmental Protection Act, 1990*, and *Ontario Heritage Act, 1990*, among other acts. The legislation also proposed two new acts, the *Special Economic Zones Act, 2025* and the *Species Conservation Act, 2025*. Staff submitted comments to the Province on Bill 5 as outlined in Report PED25181. These comments were endorsed by City Council on July 16, 2025, and Council adopted an additional motion in opposition to Bill 5 (see Appendix A).

The Province has subsequently released four additional Environmental Registry of Ontario (ERO) postings that are proposing new regulations to implement components of Bill 5, including the *Special Economic Zones Act, 2025*, the *Species Conservation Act, 2025*, and the *Ontario Heritage Act, 1990*. Staff-level comments contained in Appendices B, C, D, and E were submitted to the Province prior to the ERO deadlines.

Analysis

A summary of Environmental Registry of Ontario Postings Nos. 025-0908, 025-0909, 025-1077, and 025-1081 can be found below along with a summary of the principal comments submitted by staff. For more details, please refer to Appendix B, C, D, and E.

Environmental Registry of Ontario Posting No. 025-0908 – Developing Guidance on Section 16 Activities Under the *Species Conservation Act, 2025*

The Province sought feedback on proposed new guidance for Section 16 activities under the new *Species Conservation Act, 2025* to support its implementation. The Province is proposing to develop guidance materials to help assess whether an activity is likely to impact protected species or a species’ habitat such that a registration or permit would be required. While the draft guidance is still in development the Province requested feedback on:

- Specific aspects of the previous policies and technical direction that should be retained, updated, or removed.
- Which components of the proposed guidance would be of the greatest interest or value to the City.
- Which species groups would benefit from detailed habitat guidance.
- Any other advice or feedback on the proposed guidance materials.

Staff Response: Building on the City of Hamilton’s previous submission to the Province and the proposed amendment to the *Endangered Species Conservation Act, 2007*, and the introduction of the *Species Conservation Act, 2025*, staff have concerns with the narrowing of the definition of “habitat” to only immediate dwelling areas and to no longer include other areas relied on to complete their life processes. Staff recommend that the previous definition of “habitat” be reinstated to help realize the goals and objectives of several Provincial Initiatives, including the Ontario Biodiversity Strategy.

Staff note that the City has several initiatives that have been implemented to combat the Climate Change Crisis and Biodiversity Crisis. As such, all aspects of the proposed guidance would be of value. Staff highlighted specific examples including guidance on how community and indigenous knowledge will be used in determining Section 16 activities and how the “adverse impact” test will be determined.

Staff also recommend that the Province provide detailed science-based guidance for all species, to enable a more equitable, clear, and transparent approach to habitat guidance. Any guidance that is prepared by the Province should include meaningful consultation with municipalities and Indigenous Communities.

Environmental Registry of Ontario Posting No. 025-0909 – Proposed legislative and regulatory amendments to enable the *Species Conservation Act, 2025*

Through Bill 5, the *Endangered Species Act, 2007* was amended and the *Species Conservation Act, 2025* was introduced. The latter will come into effect at a future date coinciding with the repeal of the *Endangered Species Act, 2007*. The Province sought comment on new proposed regulations, and a limited number of legislative amendments, that are intended to support the implementation of the *Species Conservation Act, 2025*.

Staff Response: Staff have concerns that the proposed species list omits Special Concern species, as well as federally listed aquatic species and migratory birds, resulting in inequitable and insufficient protection that could accelerate biodiversity loss. Since species statuses can change, such as Black Tern recently shifting from Special Concern to Endangered, Special Concern species should receive stronger protections to prevent further declines.

Staff reiterate concerns with a registration first approach from a permit approach as it does not take into consideration the cumulative impacts on species. This approach could result in changes to the status of species and result in an overall loss to biodiversity. Staff request further information be provided on how “adverse impact” is intended to be tested, how the required monitoring reports will be prepared, reviewed, and tracked, and how “qualified professionals” will be defined. When determining which activities require registration or a permit before proceeding, staff recommend that consideration be given to the services that the natural assets are providing, and whether the impacts of a particular activity can be mitigated in a reasonable time frame.

Staff also raise concerns regarding the proposed transition regulation and the ability for existing permits to be cancelled if they are no longer required under the new *Species Conservation Act, 2025*.

Environmental Registry of Ontario Posting No. 025-1077 – Proposed Special Economic Zones Criteria

Bill 5 enacted the *Special Economic Zones Act, 2025*, granting the Province authority to designate Special Economic Zones through regulation and permit the exemption of a 'trusted proponent' or 'designated project' within a zone from requirements under any act, regulation, or instrument of an act, including by-laws of a municipality or local board. The Province sought to consult on the regulatory framework under the Act for the criteria to designate zones, projects, and proponents.

Staff Response: Building on the City of Hamilton's submission to the Province on the introduction of Special Economic Zones through Bill 5, staff generally support the Province quickly taking action to support Ontario's economy in the face of rising global uncertainty and tariffs. Staff acknowledge the potential to leverage these zones to generate economic benefits for the City, including job creation and increased investment activity within the proposed Special Economic Zones.

Staff recommend that the proposed project criteria be expanded to capture a full range of environmental, social, and economic factors to ensure the designations are only used in the most appropriate cases and so the full impact of designation is considered. In addition, Special Economic Zones should only be established once a proposal has been assessed as an implementable project and after it has been demonstrated that it cannot be achieved through traditional approval processes.

Staff support fairness, transparency, and consistency in considering the creation of a Special Economic Zone including expanding the notification and consultation process to ensure appropriate community, Indigenous, and Municipal consultation occurs over and above the ERO posting process. Staff also recommended that the Province and/or proponent seek support for the Special Economic Zone from the local municipality.

Staff note that additional information is necessary to understand how a Special Economic Zone would be implemented before the City concludes its comments on the legislation. This level of detail has not been provided in the draft policy intent and regulations released by the Province.

Environmental Registry of Ontario Posting No. 025-1081 – Proposed Regulation under the *Ontario Heritage Act* – Archaeology Exemption Criteria

The Province sought feedback on a new proposed regulation intended to support the implementation of amendments made to the *Ontario Heritage Act, 1990*, through Bill 5, *Protect Ontario by Unleashing our Economy Act, 2025*. The proposed regulation

includes criteria to exempt properties from archaeology-related requirements, requirements for the sponsoring ministers, and measures to ensure the ongoing protection of significant known archaeological sites, burial sites, cemeteries, former residential school sites, and properties designated or under easement that contain known archaeological sites.

Staff Response: Staff are supportive of the draft regulation’s provisions that limit exemptions for archaeological and burial sites, especially those with significance to Indigenous communities, and of the requirement that the Minister notify Indigenous communities before granting an exemption. Staff are also supportive of the proposed requirements for the Minister to consider the archaeological potential of the property before granting an exemption. This would allow for the City’s Archaeological Management Plan and identified areas of archaeological potential to be considered as part of a request for exemption. However, it remains unclear how the Minister’s consideration process would function and what involvement or comment the City may have as the approval authority for archaeological interests within the municipality’s jurisdiction.

Staff highlighted that Section 3 of the draft regulation identifies that other activities may be considered for exemptions, including those that “are or will be economically significant or strategically important to the Ontario Economy”. Staff are concerned that this provision could enable exemptions that would have significant impacts on yet-to-be-identified archaeological resources across the province.

Alternatives

Council may amend the staff-level comments attached as Appendix B, C, D, and E or supplement the staff-level comments with additional comments.

Relationship to Council Strategic Priorities

Priority 1: Sustainable Economic & Ecological Development

- 1.2: Facilitate the growth of key sectors
- 1.4: Protect green space and waterways

Priority 3: Responsiveness & Transparency

- 3.1: Prioritize customer service and proactive communication.
- 3.2: Get more people involved in decision making and problem solving

Previous Reports Submitted

[Report PED25181](#) – Comments in Response to Bill 5, *Protect Ontario by Unleashing our Economy Act, 2025*.

[Report PED25252](#) – Proposed Regulation for Archaeology Exemption Criteria under the *Ontario Heritage Act*

Consultation

Staff from within the Planning Division, Economic Development Division, Indigenous Relations Office, and Public Works Department were consulted in the drafting of this report and appendices. Staff's comments on ERO 025-1081 impacting the *Ontario Heritage Act* were provided to the Hamilton Municipal Heritage Committee for their information on November 28, 2025, as part of Report PED25252.

Appendices and Schedules Attached

Appendix A:	Council Motion in Response to Bill 5
Appendix B:	Staff Submission on ERO 025-0908 (Species Conservation Act, 2025 – Guidance Materials)
Appendix C:	Staff Submission on ERO 025-0909 (Species Conservation Act, 2025 - Regulations)
Appendix D:	Staff Submission on ERO 025-1077 (Proposed Special Economic Zones Criteria)
Appendix E:	Staff Submission on ERO 025-1081 (Ontario Heritage Act Regulation - Archaeology Exemption Criteria)

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