



**Written Submission of AEL Advocacy to the  
STANDING COMMITTEE ON THE INTERIOR**

Regarding

***Bill 5, Protect Ontario by Unleashing Our Economy Act, 2025***

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## Overview

Please accept the following submission on behalf of Animal Environmental Legal Advocacy (“AEL Advocacy”) in response to Schedules 2, 9, and 10 of *Bill 5, Protect Ontario by Unleashing our Economy Act, 2025*, which propose sweeping changes to Ontario’s environmental laws. Specifically, this submission addresses the proposed interim changes to the *Endangered Species Act, 2007* (“ESA”) and the introduction of the *Species Conservation Act, 2025* (“SCA”) under Schedules 2 and 10, as well as the proposed *Special Economic Zones Act, 2025* under Schedule 9.

AEL Advocacy strongly opposes these proposals.<sup>1</sup> Together, they represent an unprecedented and regressive dismantling of Ontario’s legislative framework for protecting animals and the ecosystems they rely on. The repeal of the ESA, the replacement of its core protections with a weaker SCA, and the creation of “special economic zones” where environmental laws would no longer apply, amount to one of the most significant environmental rollbacks in the province’s history. If enacted, these measures would strip protections from at-risk species, eliminate critical habitat safeguards, and undermine public and legal accountability—putting biodiversity, ecological integrity, and future generations at serious risk.

At a time of accelerating species loss and escalating climate crises, Ontario should be strengthening—not dismantling—its environmental protections. Overall, it is AEL Advocacy’s submission that these schedules should be withdrawn in full.

## About AEL Advocacy

Animal Environmental Legal Advocacy (“AEL Advocacy”) is a public interest law practice and not-for-profit organization based in Ontario.<sup>2</sup> Our lawyers understand the important interconnection between humans, animals, and the environment. We leverage our legal and political expertise to support individuals, communities, and organizations working to protect animals and the environments where they live.

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<sup>1</sup> See AEL Advocacy’s submission on the Proposed Interim Changes to the *Endangered Species Act, 2007* and a Proposal for the *Species Conservation Act, 2025* ([ERO #025-0380](#)) and *Special Economic Zones Act, 2025* ([ERO #025-0391](#)).

<sup>2</sup> <https://www.aeladvocacy.ca/>

## Summary of Recommendations

### Schedules 2 and 10:

**RECOMMENDATION:** Schedules 2 and 10 of Bill 5 should be withdrawn in their entirety. The Ministry of the Environment, Conservation and Parks should engage in meaningful public consultation on how to strengthen—not weaken—Ontario’s species at risk framework. We call on the Ministry to reaffirm its commitment to science-based, precautionary, and enforceable conservation laws that reflect the province’s legal and ethical responsibilities to animals and the ecosystems they depend on.

### Schedule 9:

**RECOMMENDATION:** Schedule 9 should be withdrawn.

## **Schedules 2 and 10: Amendments to the Endangered Species Act, 2007 and the Species Conservation Act, 2025**

### **A. Background**

When the ESA came into force, it was regarded as one of the strongest species protection laws in Canada. It established a science-based framework for listing and protecting species, developing recovery strategies, and enforcing habitat protections.

However, since its enactment, the strength and integrity of the ESA have been steadily undermined. A series of regulatory amendments have progressively weakened the Act's protections and exemptions have been granted for high-impact sectors including infrastructure, aggregate extraction, and forestry.

More recent changes have increased ministerial discretion, delayed the implementation of protections, and curtailed automatic safeguards for species and their habitats. These cumulative amendments have eroded the ESA's effectiveness and represent a failure to uphold its central purpose: the protection and recovery of Ontario's most vulnerable species.

Rather than reversing this erosion, Bill 5 accelerates it. The proposed changes would further entrench industry-driven exemptions, weaken accountability, and sever the ESA's remaining ties to independent science. If passed, this legislation would mark a profound and dangerous step backward in Ontario's commitment to protecting species at risk.

### **B. Concerns with Schedule 2: Amendments to the Endangered Species Act, 2007**

Schedule 2 proposes a series of amendments that would fundamentally rewrite the ESA, weakening the purpose of the Act, stripping habitat protections, removing scientific oversight, eliminating mandatory recovery planning, and reducing transparency and accountability. These amendments betray the intent of the ESA: to prevent the extinction of species and promote their recovery in Ontario.

## I. Redefining the Purpose of the ESA to Prioritize Economic Development

One of the most troubling aspects of Schedule 2 of Bill 5 is the proposed revision of the ESA's purpose clause, which would require decision-makers to consider "social and economic considerations including the need for sustainable economic growth in Ontario" in the administration of the Act. This shift reframes economic development as a co-equal—or even overriding—priority alongside species protection, fundamentally weakening the Act's core mandate to prevent extinction.

The current ESA already includes a permitting framework that balances conservation with development. Embedding economic growth into the purpose clause is both unnecessary and harmful. It signals that protecting at-risk species is optional, undermining the precautionary principle, contravening international biodiversity commitments, and diverging from established best practices in environmental law.

In AEL Advocacy's view, this proposal represents a serious and unjustified departure from the ESA's existing purpose, which appropriately centres on safeguarding species at risk and their habitats.

## II. Narrowing the Definition of "Habitat"

Schedule 2 proposes to significantly narrow the definition of "habitat" for animal species, restricting it to a "dwelling-place" (such as a den or nest) and "the area immediately around" it used for breeding, rearing, staging, wintering, or hibernating. This narrow framing risks excluding essential seasonal habitats, migratory routes, and ecological corridors critical to a species' survival and recovery.

The phrase "area immediately around" is vague, subjective, and open to restrictive interpretation, likely resulting in inconsistent—and often insufficient—habitat protection. For other species, habitat is defined simply as "an area on which any member of a species directly depends to carry on its life processes," an overly reductive and ambiguous standard that fails to reflect the complexity of ecological systems and interdependencies.

AEL Advocacy submits that the proposed definition marks a clear departure from the broader, science-based approach to habitat currently embedded in

the ESA. A robust and purposive definition is essential to ensure the Act functions effectively. By reducing “habitat” to only the places animals physically occupy or “habitually” use, Schedule 2 ignores the full range of environments needed to support species’ lifecycles.

### III. Eliminating Prohibitions on Harassment

Schedule 2 proposes to remove “harass” from the list of prohibited activities. This change is deeply alarming. Harassment—such as persistent noise, disturbance, or the presence of humans—can lead to chronic stress, interfere with reproduction, and disrupt species’ ability to feed and migrate. Removing this prohibition eliminates a vital safeguard against indirect but significant harm to wildlife.

### IV. Removing Automatic Listing of Species at Risk

Schedule 2 proposes alarming changes to the species listing process under the ESA by eliminating the automatic requirement for the government to list species classified as at risk by the Committee on the Status of Species at Risk in Ontario (“COSSARO”). Currently, COSSARO’s science-based assessments result in automatic legal protections for species. Under the proposed amendments, the Minister could delegate decision-making to Ministry staff and gain discretionary authority to override or disregard COSSARO’s science-based classifications. Additionally, Cabinet would have the power to reject or delay listings without any clear statutory criteria, paving the way for political interference.

This shift compromises the integrity of the ESA by replacing a transparent, science-driven process with a discretionary and opaque system. AEL Advocacy firmly believes that preserving the automatic listing of at-risk species is essential to ensure meaningful and timely protection.

### V. Weakening COSSARO Membership and Accountability

Schedule 2 proposes to reduce the minimum size of COSSARO from 12 to 10 members, while giving the government full discretion over the appointment of the Chair and Vice-Chair, risks politicizing the committee and eroding its scientific legitimacy. The changes do not address longstanding governance

concerns and instead reduce accountability and transparency in the committee's operations.

Furthermore, the proposal removes the requirement for the Species at Risk in Ontario ("SARO") list to reflect all COSSARO classifications, meaning species may remain unprotected even after being identified as at-risk by experts.

#### VI. Repealing Recovery Planning and Management Provisions

The repeal of sections 11-16.1 of the ESA—which mandate recovery strategies, management plans, government response statements, and conservation agreements—would strip away the essential tools that guide species recovery. These provisions ensure that responses are timely, science-informed, and publicly accountable. Without them, there is no roadmap for recovery and no mechanism for monitoring progress or ensuring government follow-through.

#### VII. Dismantling the Species at Risk Conservation Fund

Finally, the proposed elimination of the Species at Risk Conservation Fund would remove one of the few remaining tools requiring financial accountability for harm to species and habitats. While the Fund has been criticized as a "pay-to-slay" mechanism lacking meaningful on-site mitigation, it at least held potential to support tangible conservation outcomes.

Rather than eliminating the Fund, reforms should strengthen it—ensuring that offset payments are directed toward clear, measurable conservation actions that benefit the species impacted. Its dismantling represents a missed opportunity to improve and properly leverage this tool for species recovery.

### **C. Concerns with Schedule 10: The Species Conservation Act, 2025**

Schedule 10 proposes the wholesale repeal of Ontario's ESA and its replacement with the SCA—a significantly weaker framework that abandons the ESA's core principles in favour of deregulation, discretionary power, and facilitation of development. This marks not an evolution, but a dismantling of species at risk protections in Ontario.

We are gravely concerned by the proposed legislation, particularly for the following reasons:

I. Purpose and Framing

The SCA would adopt the same revised purpose clause as Schedule 2 of Bill 5, embedding “social and economic considerations” and “sustainable economic growth” as primary legislative objectives. This fundamental shift reframes the law from one grounded in respect for animal life, ecological stewardship, and the precautionary principle to one that explicitly accommodates, and even prioritizes, industrial and development interests.

This change is not just symbolic—it changes how every provision of the Act will be interpreted and applied. It weakens the legal basis for challenging harmful projects, undermines compliance and enforcement, and signals to developers that species protection is secondary to economic expediency.

II. Definition of Habitat

The SCA would adopt the same limited definition of habitat introduced in the ESA amendments—restricting it to areas of *current use*, such as nests or dens and their immediate surroundings. This exclusion of historical, seasonal, and potentially restorable habitats severely limits the law’s ability to support species recovery.

By failing to protect critical ecological functions like migration corridors, overwintering areas, and breeding grounds that may not be in constant use, the law denies the complexity of animals’ lives and ecosystems. It also contradicts scientific consensus on what constitutes essential habitat for species survival and recovery.

III. Eliminating Prohibitions on Harassment

Schedule 10 would remove “harass” from the list of prohibited activities, just as Schedule 2 proposes to do. This omission is deeply troubling. Persistent noise, human presence, and other forms of disturbance can cause chronic stress, alter behaviour, and reduce reproductive success—especially in sensitive or already-imperiled species.

Harassment is a well-documented threat in both terrestrial and aquatic contexts, particularly for birds, amphibians, and mammals. Eliminating this prohibition strips away a key tool for preventing harm and reflects a willful disregard for the science of animal welfare and behavioural ecology.

#### IV. Ministerial Delegation and COSSARO Composition

As with the ESA amendments, the SCA would permit broad ministerial discretion, including:

- Delegating key decision-making powers to Ministry staff,
- Retaining the ability to override COSSARO's scientific assessments,
- Appointing COSSARO's Chair and Vice-Chair at the government's discretion,
- Shrinking COSSARO's minimum membership.

While the government must follow COSSARO's scientific classifications *if* it chooses to list a species under the new *Protected Species in Ontario* list, the choice to list remains entirely discretionary. This means animals can be scientifically recognized as at risk, but still receive no legal protection if the government declines to act.

This politicizes what should be an evidence-based process, opening the door to industry interference and severing the critical link between scientific knowledge and the legal recognition of species in need. It is a structure designed for delay, denial, and discretion—not protection.

#### V. Species Conservation Registry and Streamlined Approvals

The SCA would replace ESA permits with a streamlined registration system. Key features include:

- Automatic registration for activities affecting listed species, provided that registrants follow regulatory rules;
- An online "Species Conservation Registry" for rapid self-approval;
- Exemptions for certain activities and selective permit requirements only when prescribed by regulation.

This "registration-first" approach abandons the ESA's precautionary, case-by-case review. While it is pitched as efficient, the system erodes

oversight and facilitates harm—prioritizing speed and convenience for industry at the expense of animal lives and species protection.

#### VI. No Protection for Federally Listed Migratory Birds and Aquatic Species

Under the SCA, activities affecting migratory birds or aquatic species protected under the federal *Species at Risk Act* (“SARA”) would no longer require registration or authorization under Ontario law. This creates a dangerous jurisdictional gap. Federal protections under SARA are already limited in their scope and enforcement; removing complementary provincial oversight further exposes these species to unchecked harm.

#### VII. Elimination of Independent Oversight Bodies

The SCA would abolish two key entities:

- The Species Conservation Action Agency, and
- The Species at Risk Program Advisory Committee.

These independent bodies provide crucial checks and balances, offer technical expertise, and foster public and stakeholder engagement. Their dissolution centralizes control in the hands of the Ministry and removes key platforms for accountability, scientific review, and community input.

#### VIII. The “Extinction Clause”

The SCA includes a general prohibition against actions that would result in a species no longer living in the wild in Ontario. However, the clause is devoid of enforcement mechanisms, legal standards, or thresholds for government action. It is symbolic at best—a paper shield that does nothing to prevent extinction or hold decision-makers accountable for failing to act.

#### IX. Mitigation Orders

The introduction of "mitigation orders" acknowledges that harmful activities will occur, allowing them to proceed as long as mitigation is attempted. This represents a fundamental shift away from a precautionary or “no net loss”

approach and effectively permits the destruction of habitat or individuals so long as compensatory measures—however inadequate—are proposed.

X. Codes of Practice

Under the SCA, the Minister would be able to establish “Codes of Practice” or guidelines for the protection of listed species. However, these documents are not binding law and may be ignored or inconsistently applied. They lack enforcement mechanisms, clarity, and legal weight, rendering them a poor substitute for clear, enforceable protections.

XI. Omission of Recovery Planning Requirements

Perhaps most problematic, the SCA would omit any requirement for:

- Recovery strategies,
- Management plans,  
Government response statements, or
- Conservation agreements.

These tools are essential for identifying threats, setting recovery targets, and coordinating multi-agency responses. Their removal confirms that the SCA is not a parallel system—it is a hollowed-out framework that no longer aspires to recover species, but merely to manage their decline.

## **D. Recommendation**

**RECOMMENDATION:** Schedules 2 and 10 of Bill 5 should be withdrawn in its entirety. The Ministry of the Environment, Conservation and Parks should engage in meaningful public consultation on how to strengthen—not weaken—Ontario’s species at risk framework. We call on the Ministry to reaffirm its commitment to science-based, precautionary, and enforceable conservation laws that reflect the province’s legal and ethical responsibilities to animals and the ecosystems they depend on.

## **Schedule 9: Special Economic Zones Act, 2025**

### **A. Background**

Schedule 9 would allow the creation of Special Economic Zones (“SEZs”) where “trusted proponents” of “vetted projects” could be exempted from a wide range of legal obligations, including environmental legislation, municipal by-laws, and planning rules. This sweeping authority would remove essential safeguards for species, ecosystems, and public participation. In practice, it opens the door to unchecked development, including intensive livestock operations (“ILOs”), wetland destruction, and industrial pollution—without meaningful public oversight or legal recourse.

### **B. Concerns with Schedule 9**

#### I. Undermining Environmental Oversight and Public Participation

The ERO posting states that exemptions would only be granted to “reliable proponents meeting high standards for operation, safety, and the environment”. However, the Act provides no clear definitions or enforcement mechanisms for these supposed standards. Instead, it grants the Lieutenant Governor in Council the power to make regulations prescribing the criteria for identifying a “trusted proponent.”

This vague and discretionary framework opens the door to sweeping exemptions for powerful industrial actors—without transparency, public input, or clear accountability. Projects such as highways, industrial complexes, mega-warehouses, factory farms, and resource extraction operations could all bypass critical environmental assessments and legal protections, so long as they are designated as “vetted projects” undertaken by “trusted proponents.”

The establishment of SEZs under these conditions would effectively silence the voices of local communities, environmental organizations, and Indigenous Peoples in decisions that profoundly affect animals, watersheds, ecosystems, and public health. It represents a serious regression in Ontario’s environmental governance and a betrayal of public trust.

## II. Overriding Municipal Authority and Local Governments

Sections 5 and 6 of the Act would allow the provincial government to override municipal by-laws and instruments, stripping local governments of their ability to protect wildlife, regulate land use, enforce environmental protections, and respond to community concerns. This represents a direct attack on local democracy and planning autonomy.

Municipal governments are often best positioned to assess local environmental risks, preserve key habitats and green spaces, and engage residents in land use decisions. Removing their authority undermines Ontario's planning framework and erodes public accountability.

## III. Irreversible Harm to Wildlife and Critical Habitats

The Act would allow projects to be built in any designated zone, without regard for ecological sensitivity. This means projects could be located in critical habitats of at-risk species, leading to irreversible loss of wildlife, biodiversity, and vital ecosystem services.

With fast-tracked approvals under this framework and the removal of key protections in Schedules 2 and 10, the Act effectively suspends endangered species protections within SEZ boundaries.

## IV. Increased Risk of Harm to Animals through Industrial Development

The creation of SEZs would accelerate unregulated industrial development in ways that significantly increase risks to animals and ecosystems, including:

- Intensive animal agriculture operations, which are significant sources of pollution, greenhouse gas emissions, and animal suffering;
- Transportation infrastructure, such as roads and railways, which fragment habitats, increase wildlife mortality from vehicle collisions, and pose public safety risks;
- Cumulative impacts of clustered developments, which may go unassessed due to the lack of environmental review requirements.

The failure to assess cumulative and indirect effects under this framework poses serious consequences for animal protection, ecological integrity, and public health.

## V. Erosion of Democratic and Legal Safeguards

Ontario's environmental and planning laws are not "red tape." They are foundational democratic safeguards that protect the public interest, prevent environmental harm, and uphold the rule of law.

The Act would grant the government extraordinary discretion to exempt "vetted projects" from legal obligations based on vague and politically determined criteria. This creates a two-tiered legal system, privileging projects favoured by the government while excluding others from the protections of law and process.

Section 7 of the Act further grants sweeping legal immunity to government officials and trusted proponents, shielding them from virtually all civil actions, damages, or remedies—even in cases of negligence or bad faith. Although judicial review or constitutional challenge is technically permitted, all other legal remedies—including injunctive relief and equitable remedies—are explicitly barred. This represents a dangerous erosion of legal accountability.

### C. Recommendation

**RECOMMENDATION:** Schedule 9 of Bill 5 should be withdrawn.

## **Inadequate Consultation and Failure to Uphold First Nation Rights**

In addition to the specific concerns outlined above, AEL Advocacy is deeply troubled by the Government of Ontario's failure to fulfill its constitutional duty to consult Indigenous Peoples in the development of Bill 5.

The mere posting of the proposed changes on the Environmental Registry of Ontario does not constitute meaningful consultation. Under section 35 of the *Constitution*, the Crown has a legal obligation to consult and, where appropriate, accommodate Indigenous Peoples when proposed actions may adversely impact their Aboriginal or Treaty rights.

Schedules 2, 9, and 10 of Bill 5 propose sweeping changes to endangered species protections and land-use planning that directly affect Indigenous rights to steward and protect species that are central to their traditional knowledge, ways of life, and cultural survival. Any such changes must be preceded by good faith, transparent, and adequately resourced consultation processes—not rushed, opaque legislative efforts with limited public notice and no meaningful engagement.

AEL Advocacy echoes the call of MPP Sol Mamakwa, Vice Chair of the Standing Committee on the Interior, for the Committee to visit the traditional territories of rights holders—particularly remote and fly-in communities—to hear directly from those most affected.<sup>3</sup>

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<sup>3</sup> <https://www.ola.org/en/legislative-business/committees/interior/parliament-44/transcripts/committee-transcript-2025-may-06>

## Conclusion

Bill 5, and in particular Schedules 2, 9, and 10, represents a fundamental threat to Ontario's most vulnerable wildlife and the environments where they live. The repeal of the ESA, the introduction of the weaker *Species Conservation Act, 2025*, and the creation of Special Economic Zones that exempt developments from environmental laws are not only unjustifiable—they are deeply irresponsible in the face of a global biodiversity and climate crisis. These proposals abandon science, accountability, and the precautionary principle in favour of unchecked industrial expansion.

For the reasons outlined in this submission, AEL Advocacy is requesting the immediate withdrawal of Bill 5, including Schedules 2 and 10, and 9. We thank you for your consideration of our comments and welcome further engagement with the Committee on this important matter.

Sincerely,

**ANIMAL ENVIRONMENTAL LEGAL ADVOCACY**



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