

Written Submission to the **Standing Committee on the Interior**
Re: **Bill 5 *Protect Ontario by Unleashing Our Economy Act 2025***

Tanzima Khan, Committee Clerk
Standing Committee on the Interior
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Sent via email: sci@ola.org

Friday May 23rd, 2025

This submission is in response to the Ontario government's introduction of Bill 5, the *Protect Ontario by Unleashing Our Economy Act*. Treaty relationships as stated in Section 35 of the Constitution are not adversarial to economic development. Common ground and common interests including First Nations prosperity in Ontario, is possible. For the economy to thrive, First Nations rights and interests, including environmental stewardship need to be taken into consideration.

Shared Path calls upon the Government of Ontario to repeal Bill 5 as it does not acknowledge First Nations and Treaty rights. This includes the Crown's Duty to Consult and Accommodate and the principle of Free, Prior and Informed Consent (FPIC) outlined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). **Further, we support the Chiefs of Ontario's call to undertake a full process for engagement with Ontario First Nations prior to proceeding with this legislation. A revision of the preamble is not sufficient to build trust or demonstrate fulsome reconciliation.**

First Nations need to be consulted early. Bill 5 advances economic development by disregarding due process in accordance with Duty to Consult and Accommodate. For example, Schedule 9 of the Bill, the Special Economic Zones Act, 2025 (the "SEZA") lacks critical definition and explicit oversight mechanisms or ways and means in which First Nations will be able to either participate in, or raise concerns about, decision-making; leaving the Premier and cabinet with unprecedented control over the province, including the ability to exempt individuals and corporations from provincial and municipal laws. This leads to a weakening of democratic accountability and environmental integrity while bypassing consultation with First Nations.

In order to strengthen, protect, and grow the Ontario economy, a process is needed to ensure First Nations rights and interests are not put at risk. The 2017 *Saugeen First Nation v Ontario* Court ruling found that First Nations have a right to be consulted and accommodated, there needs to be a clear and coherent process, with capacity and funding for the First Nations to participate in consultation including legal costs and peer reviews funded by the Crown &/or proponent. It is reasonable for a First Nation to take the position that it should not have to pay for the Crown to fulfil its constitutional obligations. **This precedent sets out that the economic benefit for a project does not override inherent and constitutional protected rights – which draw upon a relationship to healthy land and waters.**

Bill 5 also significantly deregulates environmental protections, fast-tracks critical resource extraction, and exempts the need for archaeological assessments which trigger consultation with First Nations. The cumulative impacts are significant, including lack of consideration for totemic species, medicinal species, and subsistence species — this inhibits cultural practices which infringes upon First Nations rights. Economic Reconciliation must not be presented as a short term cash influx at the expense of long term wellbeing.

In Ontario, there are 46 treaties that have been signed between the First Nations in Ontario and the Crown. The Duty to Consult and Accommodate, under Section 35 of the Canadian Constitution, is law in Canada. Bill 5 continues to pursue an adversarial approach to its constitutional responsibilities, which is not in the spirit of reconciliation. Throughout decades of asserting First Nations rights in Canada, many examples of crises come to mind within and around Ontario's borders: the Oka Crisis, Ipperwash Crisis, Caledonia Land Dispute, Anicinabe Park Occupation, and mercury contamination in Grassy Narrows.

Constitutional responsibilities to First Nations will always take precedence over any particular law or regulation. Ontario will always need to consult and accommodate, and to respect the spirit and intent of the Treaties. If the province fails, legal experts warn that legal action will be pursued in the courts. It is our position that if enacted as is, Bill 5 would set reconciliation back and may result in expensive delays in the courts as well as further division between Indigenous and Non-Indigenous Peoples rather than uniting us for a thriving Ontario.

Shared Path is a charitable not-for-profit organization which works towards a future in which Indigenous voices, obligations, and rights form a sustained and integral part of Ontario's planning system. Shared Path addresses the challenges and opportunities that emerge where land use change and First Nations and Treaty Rights intersect, and facilitates relationship-building opportunities for First Nations and local governments, institutions, and organizations.

Due to the reasons explained in this submission, Shared Path requests the immediate withdrawal of Bill 5 and the commitment to a process for Consultation and Accommodation. We thank you for your consideration of our comments. Please do not hesitate to reach out if you have any questions or would like to discuss this matter further.

Sincerely,
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cc

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