

Summary of this Memo

This memo briefly explains both Ontario's [*Protect Ontario by Unleashing our Economy Act, 2025*](#) ("Bill 5") and Canada's [*One Canadian Economy Act*](#) ("Bill C-5"), outlining what their purpose is, and what the potential impacts could be for First Nations in their respective jurisdictions. We have provided a summary of the potential impacts to Mishkeegogamang First Nation (MON) based on what we currently know about each legislation.

A. What is Bill 5?

Bill 5 is legislation passed by the Government of Ontario in June 2025. It is meant to reduce the processing times for regulatory approvals. It introduces changes to eight different pieces of provincial legislation. These include the [*Mining Act*](#), the [*Endangered Species Act*](#) ("ESA"), and the [*Ontario Heritage Act*](#) ("OHA"), and also introduces two new pieces of legislation known as the [*Special Economic Zones Act*](#) ("SEZA") and the [*Species Conservation Act*](#) ("SCA").

Summary of Changes brought through Bill 5:

- 1. Creation of Special Economic Zones ("SEZs") – With the introduction of the SEZA,** Ontario can now create rule-free zones where it can exempt any business or project from any provincial or municipal law, by-law, regulation or other rule.
- 2. Reduction of Species at Risk Protections -** Bill 5 will replace the *ESA* with the *SCA* once changes can be implemented. For now, the *ESA* has been changed to include many of the same changes planned for the *SCA* – which reduces the protections given to Species at Risk in Ontario. Once the *SCA* is in-force, an important consultation trigger for First Nations will also be removed before decisions are made concerning Species at Risk.
- 3. Changes to Archaeological Protections -** Ontario has given itself the power to exempt a proponent (developer) from requirements meant to protect archaeological sites under existing laws. Ontario can do so when it believes that the exemption may help advance certain provincial priorities. This means that it can allow a proponent to, for example, disturb an archaeological site without a license in order to build new housing or a transit project.
- 4. Streamlined Approval Process for Mining -** Ontario has also promised to create a new "streamlined approval process for mining." Bill 5 gives Ontario additional powers to create this process through regulation – which allows for approvals to be fast-tracked. Ontario also plans to create a team to help with approval processes, including presumably, consultation with First Nations.

A more in-depth discussion of the specific changes made by Bill 5 through each legislation is outlined below.

Specific Changes through Bill 5

A) Changes through the *Special Economic Zones Act*

Ontario passed the *SEZA* as a part of Bill 5. As stated above, it grants Ontario the unrestricted ability to create SEZs, which are rule-free zones where it can exempt businesses from any

provincial or municipal law, by-law, regulation or other rule. The new powers given to Ontario through the legislation include:

- i) **Being able to designate a SEZ:** Cabinet will be able to designate any area of Ontario as an SEZ. There are no limits under the *SEZA* related to the size of a SEZ, or where they may be located.¹
- ii) **Being able to designate a “Trusted Proponent” and a “Designated Project”:** The Minister of Economic Development, Job Creation and Trade can designate any person or any “class” of persons as a “Trusted Proponent” and any project as a “Designated Project.”²
- iii) **Being able to decide which rules will not apply in this SEZ:** Once Ontario designates a SEZ, a Trusted Proponent and a Designated Project, they will be able to exempt or alter the requirements of any provincial or municipal law, by-law, regulation or other rule for a trusted proponent or project within it. This includes requirements related to permitting and approvals.

B) Changes to the *Endangered Species Act* and the introduction of the *Species Conservation Act*

Ontario has complained that the permitting process under the *ESA* causes unnecessary delays and costs for housing, transit and critical infrastructure in the province. As a result, it plans to replace the *ESA* with the *SCA* – a statute that is much weaker in terms of protection for Species at Risk in Ontario.³ In anticipation of the passing of the *SCA*, the *ESA* has already been amended to remove many of the protections currently provided to Species at Risk. This change significantly reduces protection for certain species in Ontario, and alters what impacts a developer can have on their habitat. This change could have an impact on MON’s harvesting rights and the overall sustainability of environments in Ontario.

C) Amendments to the *Mining Act*

While the details are not yet clear, the *Mining Act* has been amended by Ontario to create a new “Mine Authorization and Permitting Delivery Team”. Its purpose is to help proponents or developers obtain approvals more quickly and to start on projects faster. The amendments to the legislation also allow Ontario to set new standards for how long a permit approval should take, essentially fast-tracking the whole process.

D) Proposed Changes to the *Ontario Heritage Act*

Ontario has proposed a process and criteria for determining when projects may be eligible for an exemption under the *OHA*, either within or outside of a SEZ. If the proposed criteria are met, Cabinet may issue an Order in Council allowing the project to be exempt from an archaeological assessment and licensing requirements. This license could also include any “conditions” that Ontario believes should be added to the exemption.

¹ [Special Economic Zones Act](#), 2025, S.O. 2025, c. 4, Sched. 9, s 2(1).

² [Special Economic Zones Act](#), 2025, S.O. 2025, c. 4, Sched. 9, ss 2,3,4.

³ Environmental Registry of Ontario, “[Proposed interim changes to the Endangered Species Act, 2007 and a proposal for the Species Conservation Act, 2025](#)”.

What does this mean for MON?

MON's Traditional Territory is considered the “gateway” to access critical minerals in the Ring of Fire, and it is very likely that additional impacts related to the development of this region will have downstream effects on MON's rights and Territory.

MON's Territory is in an area that could be the focus of many natural resource development projects, such as mining, forestry or quarrying. Ontario has not yet given any information about whether these types of projects may be granted an exemption or will be part of a SEZ under the *SEZA*. Given this, it is difficult to say at this time what impacts Bill 5 will have on First Nations and the exercise of harvesting and treaty rights.

The changes to Ontario's Species at Risk legislation could also be harmful to First Nation and their treaty rights because many protections are being removed for species that are already vulnerable to the impacts of development. While we do not yet know which species are considered “at risk” within MON's Traditional Territory, it is very likely that they will face greater risks due to these reduced protections — especially as Ontario continues to encourage more development in the area.

Other concerns around the protection of sacred and cultural sites arise due to the changes introduced by Bill 5 – including changes made to archaeological requirements in the province and fast-tracked approvals for projects. These changes could have irreversible and detrimental impacts to the way MON practices its rights, unless Ontario commits to proper consultation.

B. What is Bill C-5?

Bill C-5 is legislation that was introduced by the Government of Canada (Canada) in June 2025. The purpose of Bill C-5 is to reduce regulatory barriers and stimulate the Canadian economy by allowing for faster approval of projects and removing barriers to trade within the country. Bill C-5 consists of two main parts:

1. The *Free Trade and Labour Mobility in Canada Act*: Which aims to remove federal barriers to trade between provinces and improve labour mobility within Canada; and
2. The *Building Canada Act* (the “BCA”): Which aims to prioritize the approval of “National Interest Projects” by shifting the focus of federal approval processes from “whether” a project will be built to “how” that project will be built. It further allows for projects to be exempt from the application of any federal law or regulation if decided by Canada.

How does Bill C-5 work?

The *BCA*, introduced through Bill C-5, provides Canada with new powers to fast-track the approval and construction of major infrastructure projects that it deems are in the “national

interest”. This includes railways, ports, oil pipelines, mines, nuclear facilities, and electricity transmission systems.⁴ These new powers are divided into two parts:

- The ability to designate certain projects as National Interest Projects for the purposes of fast-tracked approvals;⁵ and
- The ability to exempt National Interest Projects from any federal law or regulation.

Potential Issues with Bill C-5

Bill C-5 creates a lot of uncertainty around the protection of First Nations rights, including long-recognized treaty rights. Currently, it is unclear how Canada plans to address any potential impacts and accommodate First Nations to ensure their rights are not negatively affected by Bill C-5. Considering this, Bill C-5 has several key issues, summarized below:

- **Centralized Powers** – The *BCA* significantly centralizes powers and allows Canada to bypass existing laws and authorization processes. This new power creates significant risk for all First Nations, as continued use of these powers could weaken other procedural protections in place to ensure First Nations’ rights are not negatively impacted.
- **No Meaningful Consultation Process** – While First Nations will still be consulted during the fast-tracking process and conditions may be added to a project, there are significant concerns about the fact that these conversations will lead to an approval despite concerns raised by First Nations.
- **The Removal of Consultation Triggers** – By allowing Canada to decide that some laws may not apply to “National Interest Projects”, Bill C-5 risks removing authorizations that would usually trigger the “Duty to Consult and Accommodate”, a legal obligation owed to First Nations.

Through Bill C-5, the *BCA* further allows Canada to exempt or change how most federal laws or regulations apply, based on a simple recommendation from the Minister overseeing them.⁶

What does this mean for MON?

As it is currently written, Bill C-5 and its supporting legislation is vague and open-ended, so it is difficult to determine the exact impact it will have on First Nations and their rights. Based on the limited information that has been provided so far, the first candidates for designation as “National Interest Projects” include interprovincial pipelines, deep seaports, mining projects, or carbon capture pipelines.⁷ Currently, we are not aware of any such proposals which may run through MON’s Traditional Territory. Despite this, there is the possibility that future projects will impact MON’s Territory and the exercise of harvesting rights. In this event, MON needs to be consulted by Canada on impacts to the Territory as these legal obligations are not optional. One consideration is that MON’s Traditional Territory hosts a significant amount of Ontario’s mining

⁴ [One Canadian Economy: An Act to enact the Free Trade and Labour Mobility in Canada Act and the Building Canada Act](#) 1st Sess, 45th Parl, 2025, c 2 [*BCA Act*].

⁵ *Ibid* at s 5(1).

⁶ *Ibid* at s 21(1).

⁷ See: Financial Post, [“Carney government's nation-building projects list expected to draw from these five areas”](#).

and natural resource extraction sector, so it is possible that the region will be the focus of opportunities related to economic development.