

RESPONSE TO 1ST TECHNICAL COMMENTS PICTON TERMINALS (24 WHITE CHAPEL ROAD)

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May 19, 2020

Mr. Paul Walsh

Manager of Planning
Corporation of the County of Prince Edward
280 Picton Main Street
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T. 613.476.2148 x 2025

**RE: Zoning By-law Amendment (Z57-19) and Site Plan Control (SP-09-19)
24 White Chapel Road – Picton Terminals**

Dear Mr. Walsh,

Fotenn Planning + Design is pleased to submit this letter and supporting documentation on behalf of 1213427 Ontario Corporation, operating as Picton Terminals, for the property municipally known as 24 White Chapel Road (formerly 62 White Chapel Road), commonly known as Picton Terminals, in the County of Prince Edward. This letter provides responses to the technical comments received from IBI Group, on behalf of the County of Prince Edward, date March 16, 2020.

Revised plans and supporting studies are submitted in support of these applications, as follows:

- / Revised Site Plan, prepared by Josselyn Engineering, dated May 14, 2020;
- / Revised Grading and Drainage Plan, prepared by Josselyn Engineering, dated May 14, 2020;
- / Vehicle Movement Plan, prepared by Josselyn Engineering, dated April 8, 2020;
- / Revised Environmental Evaluation, prepared by XCG, dated April 23, 2020;
- / Response Letter, prepared by XCG Environmental Engineers & Scientists re: In Water Works and Department of Fisheries Approval, dated April 23, 2020.
- / Traffic Impact Study Addendum, prepared by McIntosh Perry Consulting Engineers, dated April 2020;
- / Pinchin Ltd., Response to Comments re: Acoustic Assessment Report, dated April 27, 2020;
- / Ministry of Heritage, Sport, Tourism, Culture Industries Letter re Entry into the Ontario Public Register of Archaeological Reports, dated April 17, 2020
- / Quinte Conservation Letter re Section 59 Clearance Notice for Source Water Protection, dated July 11, 2019;
- / Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020
- / Ministry of the Environment, Conservation and Parks Letter re Compliance Confirmation, dated April 15, 2020;
- / Drawing C1, prepared by Fotenn, dated July 3, 2019;
- / Cruise Ship Docking Use Concept Plan, prepared by Fotenn Planning + Design, dated May 19, 2020;
- / PIN Map 55045-0028;
- / Planning Addendum Report, prepared by Fotenn Planning + Design, dated May 19, 2020;
- / This Technical Response Letter.

Response to Technical Comments

We have taken care to review the comments provided. We provide this consolidated response letter on behalf of the applicant to identify how each comment has been addressed. Technical comments received are bulleted, with responses listed below each item in **bold**.

First Submission

/ Based on our records, we understand that the First Submission was provided by the applicant and received by PEC on November 23, 2018. The material submitted is discussed below, with commentary based on our review of the material from a land use planning perspective.

This application was the first for the broader port rezoning and Site Plan Control Application. Previous submissions were made, but this is the application that was advanced through the public meeting process.

ZBLA Application Form

/ We note that the PDF copy of the application form we received was unsigned

This is correct. Originals were signed at the County at the time of submission. With our submission we also included a complete digital submission that would not have included signed versions of the application form.

Archaeological Assessment

/ We note that this was a Stage 1 with recommendations for Stage 2 work for portions of the site, but at time of first submission no Stage 2 report was provided, and we understand this work had not yet been completed.

A Stage 2 Archaeological Assessment was submitted to the County in July 2019. A clearance letter was received from the Ministry of Heritage, Sport, Tourism, Culture Industries regarding the review and entry of the Stage 2 Archaeological Assessment into the Ontario Public Register of Archaeological Report. See the MHSTCI Clearance Letter.

MOTCS Submission Record

/ The MOTCS letter indicates receipt and filing of the Stage 1 report.

Correct, and as noted clearance has been issued for Stage 2 as well.

Concept Plan

/ The plan utilizes a recent air photo as a base, and conceptually identifies existing and proposed site elements. We understand this plan is intended to inform the Draft ZBLA also submitted.

That is correct.

Planning Justification Letter

/ This letter serves as the initial planning justification for both the ZBLA and SPC application. It primarily focuses on matters pertaining to the ZBLA, and includes:

- i. Review of the Development Applications
- ii. Discussion of the context and surroundings
- iii. Review of Some supporting studies (Note: As per comments provided later in this letter, this only includes the SWM report, Stage 1 Archaeological Assessment, and the Traffic Impact Study. This section and analysis was never updated to include additional material provided in the revised submission)
- iv. A review and analysis of the policy and regulatory context, including:
 1. Provincial Policy Statement 2014
 2. County of Prince Edward Official Plan
- v. A review and analysis of current and proposed Zoning
- vi. Conclusion

This analysis is correct.

/ We have additional comments on the PJJ and the supplementary and addendum submissions, provided later in this document.

Noted.

Stormwater Management and Drainage Report

/ We note that this version has been replaced with the version dated January 24, 2019, provided through the revised submission. Therefore we have not reviewed this version.

Noted. The January 24, 2019 report is the most up to date version and formed part of the Environmental Compliance Approval.

Topographic Survey

/ We note that the survey is dated to 2015 and reflects site conditions prior to site works that we understand have preceded application submission (i.e. escarpment face excavation, structure removals, site grading, etc.). Based on this, we believe the survey should be updated to document all existing conditions to accurately reflect current property status.

The Revised Site Plan and Revised Grading and Drainage Plan show current and proposed conditions of the subject site.

/ We also believe it should also be updated to depict the accurate technical delineation of the hazard land areas as per QCA regulation requirements, for the entire shoreline frontage.

The rockface and 30-metre setback is shown on the Revised Site Plan and Revised Grading and Drainage Plan. The 30-metre setback includes the erosion susceptible area.

/ Further, we believe this survey should be supplemented with a legal survey and/or a Surveyors Real Property Report to confirm the exact extent and description of lands under application (i.e. in our review there was some confusion regarding Lots 130 and 131, and whether they are now legally part of the subject lands)

The survey submitted is a legal survey. Lot 130 and 131 are legally part of the subject lands. The lands form a single pin 55045-0028. Pin map has been included with this submission.

Traffic Impact Study

/ We note that this report is absent any commentary on the proposed "Tour Boat Docking" use.

Refer to the Traffic Impact Study Addendum prepared by McIntosh Perry Consulting Engineers dated April 2020.

/ Note that based on the above, we understand the SPC application for the entirety of the subject lands was not originally formally submitted, as there was no completed application or provision of a non-conceptual site plan with the original ZBLA submission. However the heading for the Planning Justification Letter refers to applications for ZBLA and SPC, and we understand that a separate SPC application for portions of the lands preceded the ZBLA submission. We have not reviewed that submission.

A prior Site Plan Control Application was submitted for part of the lands. The County did not process this submission prior to the project team submitting a broader Zoning By-law Amendment and Site Plan Control application for the entire land holdings. The November 2018 submission is the appropriate submission for review along with supplemental information that has been provided since that time.

Technical & Stakeholder Comments on First Submission

/ We are not aware of any formal technical comments prepared by PEC staff or stakeholders on the first submission, but understand that PEC staff requested additional information to make the submitted applications complete. This request was provided in a letter from PEC staff to the application on May 9, 2019. This letter indicates the submission of a Site Plan Control Application County File SP-03-18, which was received on October 31, 2018, and that this application was intended to address portions of the site subject to confirmation of Legal Non-Conforming Use ("LNC"). Based on this, we understand the applicant intended to make one SPC application for a portion of the lands with a concurrent ZBLA for the entirety of the lands, then follow that with a second SPC submission for remaining areas subject to ZBLA approval.

Noted.

Second Submission

/ Based on the material provided to us, we understand the Second Submission was submitted in July, 2019. The material submitted is outlined below, with some commentary based on our review of the material from a land use planning perspective.

Noted.

Cover Letter

/ The letter provides responses to specific requests and comments from PEC staff in the May 9, 2019 letter re: Information Requirements for a Complete Application(s)

Noted.

SPC Application Form

/ Signed and commissioned with Owners authorization page, with subject lands described generally consistent with the ZBLA submission (i.e. entirety of lands under ZBLA)

Noted.

ZBLA Application Form

/ Signed and commissioned

Noted.

Supplemental Submission Response Letter

/ This letter provides review and analysis of proposed Zoning as submitted in the Draft ZBLA as part of the originally submitted PJJ. It also is intended to address the PEC staff request for Building Elevations and a Rural Design Brief.

Noted.

/ We note the application refers to cross-sections as Attachment A to the letter. We did not receive these and thus have not reviewed.

Noted. Refer to Drawing C1, Picton Terminals, July 3, 2019 which was submitted as Appendix A.

/ Comments pertaining to existing and proposed buildings are captured in our redline notes on the site plan.

Noted. Refer to the Revised Site Plan.

/ Comments on the planning justification and Draft ZBLA are provided in later sections of this letter.

Noted. Refer to Planning Addendum Report and revised zoning by-law amendment text.

Conceptual Site Plan

/ The notations on the plan do not indicate any revisions or update dates, so our impression is this is the same Oct 31, 2018 version provided with the first submission. The version provided to us appears scanned to 11 x 17 size, and some text is illegible, so berm identification could not be completed. Despite this, we note the submission of the Site Plan and Grading plan providing these details.

Noted.

Site Plan

/ We have provided redline comments and notes on the site plan. Please refer to that plan for review.

Refer to the Revised Site Plan. The redline comments have been addressed below.

/ As noted throughout, the Site Plan is impacted by and should be coordinated with various items, such as legal and topographic survey, SWM, grading, hazard land delineation, Environmental Evaluation, etc.

Refer to the Revised Site Plan. The Site Plan has been revised per provided comments. The redline comments have been addressed below.

1. Locate zone boundaries on plan.
 - **The majority of the subject lands are proposed to be rezoned Special Extractive Industrial (MX-X) Zone and the site statistics table provided on the plan indicates this. The Environmental Protection (EP) Zone of the site will remain unchanged.**
2. Provide dimensions for all buildings and structures.
 - **The proposed buildings have not been designed. Proposed building areas for each structure are provided on the Revised Site Plan. Detailed drawings will be provided at a later date.**
3. Provide areas for all buildings and structures.
 - **Areas for all buildings and structures are provided on the Revised Site Plan. These building areas are approximate and detailed drawings will be provided at a later date.**
4. Is a fire route required per OBC? Show on plan.
 - **A fire route is shown on the Revised Site Plan. Fire route conforms to the OBC requirements.**
5. Label adjacent zone categories.
 - **The Revised Site Plan provides information relevant to the subject lands.**
6. Label 15m landscape area along roads/property boundaries.
 - **A 15 metre landscape buffer area is shown on the Revised Site Plan.**
7. Show proposed stock piles and associated dimensions to lot lines.
 - **The general location of storage areas is provided on the Revised Site Plan. Storage areas will comply and be located outside of necessary setbacks. The exact location of storage is not identified or static, but will be located within the identified areas.**
8. Accessory buildings shall conform with MX zone. s.27.3.4 implies 30m setback to street, confirm location of temporary coverall buildings.
 - **All accessory buildings are at a minimum 30 metres set back and areas are shown on the Revised Site Plan.**
9. Provide building elevation drawings for all buildings and structures to determine height.
 - **The buildings have not been designed but will comply with the height requirement of the zoning by-law. Detailed drawings will be provided at a later date.**
10. Provide clarification for how dock access road connects with parking area or road.
 - **The Revised Site Plan shows the access road.**
11. Provide details for any proposed or existing fencing.
 - **Fencing details are shown on the Revised Site Plan.**
12. Clarify if site triangles apply to private driveways, or municipal rights of way.
 - **The site triangles apply only to right-of-way.**
13. Confirm required parking calculations and supply, including barrier free parking.
 - **Parking calculations and supply are provided in the site statistics table on the Revised Site Plan.**
14. Does private driveway comply with county design standards? Width seems narrow for two-way use.
 - **The driving lane is at a minimum of 6 metres in width and conforms to County's design standards.**
15. Confirm required loading space calculations and supply.
 - **Refer to the site statistics table on the Revised Site Plan.**
16. Is a landscape plan prepared by an OALA required? Cannot confirm landscape buffers without.
 - **Refer to the Revised Site Plan which shows the proposed landscaped buffers and proposed landscape species and layout.**
17. Is CBSA area considered accessory use? Are any structures proposed?
 - **The CBSA area is part of the transshipment operation. A future coverall will be located within the CBSA area.**
18. Label surface materials throughout site ie. Asphalt, concrete, gravel, grass, etc.

- **Surface materials are labelled on the Revised Site Plan.**
- 19. Is development subject to AODA design criteria now that public use is proposed?
 - **The development will comply with AODA design criteria.**
- 20. Is there any pedestrian access from street proposed? Are sidewalks proposed or required
 - **Pedestrian access via sidewalks from the street is not proposed. A pedestrian gathering area for bus transport is proposed and shown on the Revised Site Plan. Pedestrians will exit cruise ships into a holding area and bus transport will be provided.**
- 21. Are any long term or short-term cycling facilities proposed? Show on plan.
 - **No cycling facilities are proposed. Pedestrian access is only granted in the gathering area once exiting the cruise ship.**
- 22. Confirm proposed vehicle types within site, vehicle turning movements may be required.
 - **Vehicle turning movements and details are provided on the Vehicle Movement Plan.**
- 23. Confirm proposed waste collection. Show enclosures on plan.
 - **Garbage bins will be located adjacent to the brick building. Refer to Revised Site Plan.**
- 24. Zoning details chart on plan would be helpful to determine zoning compliance.
 - **Refer to the site statistics table included on the Revised Site Plan.**
- 25. Provide survey plan does not match site plan drawing, applicant to confirm accurate existing information.
 - **The survey and site plan are accurate.**

Grading Plan

/ The plan shows only a partial area for the easterly portion of the site, where presumably the applicant indicates the bulk of the site works are to occur. It does not include the area with the proposed new gate house, and portions of the plan for areas adjacent to White Chapel Road are cut-off and cannot be reviewed.

Refer to the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020 which provides approval of the Stormwater and Drainage Report and Grading Plans, which cover the entire site, dated January 24, 2019. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan.

/ The Grading Plan also does not show the delineated hazard lands as per Quinte Conservation Authority (“QCA”) regulations. Refer to note re: updates to the Topographic Survey and commentary below on the Erosion Hazard Assessment

The 30-metre setback has been provided on the grading plan and site plan. The rock face is shown on both plans and the 30-metre setback includes the erosion susceptible areas. Refer to the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020 which provides approval of the Stormwater and Drainage Report and Grading Plans dated January 24, 2019. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan. Should additional delineation be required, it can be shown on alternative plans.

/ We note the proposal of SWM infrastructure within what would be the hazard land area. Comments from QCA have been provided and are summarized below

Refer to the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020 which provides approval of the Stormwater and Drainage Report and Grading Plans dated January 24, 2019.

/ It appears that the version of the Grading Plan included in the January 2019 SWM report is different than the Grading Plan provided with the SPC application (Revision Date July 12, 2019). There are some aspects of the strategy discussed in the SWM report that should be updated to reflect the current plan to confirm acceptability of the proposed approach.

Refer to the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020 which includes the approved grading plan. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan.

/ We provide commentary below regarding establishing a technical review committee to ensure complete review, which would include the grading plan

The Stormwater Management and Drainage Report, which includes the Grading Plan for the entire site, was approved per the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan. A technical review committee is not appropriate or necessary.

Stormwater Management and Drainage Report

/ As noted, our review of this report indicates the grading plan and discussion is based on an older version of the Grading Plan.

Noted. The Stormwater Management and Drainage Report, was approved per the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan.

/ We note the comments from QCA and PEC engineering staff, which are summarized below

Noted.

/ In our opinion, with respect to public health and safety and protection of natural heritage features and functions, it is critical that this report and accompanying plans be technically reviewed in a coordinated fashion by all Qualified Professionals (“QP”) (e.g., PEC, QCA, MNR, DFO, etc.) and that this review be the main driver in informing the Site Plan drawing and agreement. Given the small number and size of buildings and structures in the proposal, the main element of site works pertains to SWM, grading and servicing.

- **Refer to Quinte Conservation Letter re Section 59 Clearance Notice for Source Water Protection, dated July 11, 2019.**
- **Refer to the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020.**
- **The MECP has provided approval related to the stormwater management and drainage plans for the subject site. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan.**

Revised ZBLA Schedule

/ We note the schedule is revised, but no date or identification of when it was prepared.

Appendix A of the planning addendum included with this submission includes a detailed ZBLA schedule.

/ There is no update to the ZBLA text, and the applicant should review the initial submission to confirm it accurately captures the proposal illustrated in the latest material, including Conceptual Site Plan, Site Plan, etc.

Refer to the updated full draft amendment by-law in Appendix A of the Planning Addendum Report.

/ We also note that the digital ZBLA schedule does not have a Title, legend or label. The Schedule also does not identify the individual zones to be rezoned from MX-1 and RU1 to MX-X.

Refer to the updated zoning schedule in Appendix A of the Planning Addendum Report.

/ The Schedule does not identify Hazard Lands delineated as per QCA regulations. In our experience, delineation of Hazard Lands and incorporation of such into an appropriate zoning designation is common best

practice, but we acknowledge that the PEC Zoning By-law does not adopt this approach. Therefore, we offer this as a suggestion for a possible inclusion on a site-specific basis.

Refer to the updated zoning schedule and full draft amendment by-law in Appendix A of the Planning Addendum Report.

Fire Safety Plan

/ It does not appear that these materials incorporate Fire and Emergency considerations for the proposed Tour Boat Docking use, nor movements of passenger vehicles and/or tourist pedestrian movements through the site.

The Fire Safety Plan is not a planning matter. Direct consultation has occurred with Emergency Services and on-going communication occurs including the desire to dock cruise ships. The plan is not static and changes with the priorities of the port.

/ In our opinion, these materials require review by County Fire and Emergency Services staff to determine:

1. How is Fire and Emergency Service currently provided to the existing site?
2. Is a dedicated fire route required under OBC and if so, would the existing and proposed travel routes meet that requirement for surface and load bearing?
3. Confirmation of acceptable water supply location and access for fire trucks, ambulances, etc., to portions of the site requiring access

The Fire Safety Plan is a living document that changes, through consultation with Emergency Services, as the site and uses evolve. Direct communication has and will continue to take place with Emergency Services.

/ In our review, we are not aware of any comments provided by PEC Fire and Emergency staff.

Direct communication has and will continue to occur with Emergency Services.

Acoustic Assessment Report

/ Based on the May 9 letter from PEC staff, the applicants were required to submit a Noise and Vibration Assessment to form a complete application. The report states: Operations at the port do not include sources of vibration such as stamping presses. Consequently, a detailed vibration impact assessment is not required. This assessment concentrates on potential noise impacts only.

Noted.

/ The assessment does not address the introduction of the Tour Boat Docking use and whether a proposed "Tour Bus Pick-up Area" should be considered a sensitive receptor or at the very least modelled as such for consideration of potential impacts for tourists waiting at such location for defined periods of time. Further, while potentially challenging to quantify, there is no discussion on noise impacts as may be experienced by tourists moving through the site.

Refer to the Pinchin Ltd. Response to Comments dated April 27, 2020. This response indicates that the cruise ships and tour buses within the Picton Terminals facility are temporary in nature and are not associated with any noise sensitive commercial or institutional purpose buildings or residential properties. Refer to the Response to Comments for additional details.

/ The report does review and assess off-site sensitive receptors against the provincial framework, including the Ministry of the Environment, Conservation and Parks ("MOECP") Publication NPC-300 "Environmental Noise Guideline Stationary and Transportation Sources – Approval and Planning", August 2013), which is the appropriate document with respect to thresholds for possible sensitive uses.

Noted.

/ The report identifies such surrounding uses (mostly neighboring homes) and demonstrates that the port, as assessed, would operate within NPC 300 guidelines.

Noted.

- / Some industry best practices are recommended which may not be generally implementable through zoning or site plan measures, such as:
 1. maintain mufflers
 2. turn off equipment when not in use,
 3. maintain positive community relations by keeping the public informed, etc.

Refer to the Pinchin Ltd. Response to Comments dated April 27, 2020. The Response indicates that the best practices are intended to minimize the construction noise emissions as much as possible and were provided in a proactive manner to mitigate the facility noise impacts on nearby receptors. Refer to the Response to Comments for additional details.

- / The assessment has incorporated a proposed 10m berm as outlined for portions of the site in the revised submission. A technical review will be necessary to determine whether the berm is required to ensure that homes on the other side of the berm are protected from above-threshold noise levels. The berm is being implemented primarily as a response to the aesthetic concerns, and may not be acceptable with respect to grading/drainage impacts on adjacent properties (subject to technical SP Review).

Refer to the Pinchin Ltd. Response to Comments dated April 27, 2020. The Response indicates that based on the Pinchin site visit, it was observed that the earth berm meets the MECP definition of “Acoustic Barrier” and was therefore included in the modelling as a noise control measure. Refer to the Response to Comments for additional details.

- / We note again that the proposed ZBLA (Appendix A to PJJ) is from the original submission, which only requires a 3m berm. If the berm is reduced to 3m, the acoustic assessment report must be updated to assess impacts and recommend other mitigation measures, if necessary.

Refer to the Revised Site Plan, Response to Comments prepared by Pinchin Ltd. dated April 27, 2020, and Planning Addendum. The original proposal assumed a 3 m berm would be build but a 10 m berm in height has been constructed.

- / We recommend that PEC consider retaining a Peer Review QP to review and comment on the acceptability of the technical aspects of the report (i.e. methods, outputs, etc.)

Comments related to the Acoustic Assessment Report have been addressed. We don't believe a peer review beyond that of IBI Group isnecessary.

Erosion Hazard Assessment

- / We are unclear what role this assessment is playing. The report dates to 2017, but does not appear to have been included in the original submission. Additionally, the scope of the assessment is restricted to a small portion of the property, without clarifying why.
- / The report recommends against a QCA requirement of adding 15m to the calculated stable slope and erosion allowance, saying it would be excessive.
- / Further, the report appears to make technical recommendations, based in part on review of aerial imagery, in which the location and extent of the shoreline is hard to observe.
- / Generally, there is a lack of clarity around how the recommendations of this report are being implemented, how the 30m shoreline buffer shown on the site and grading plans was established, and why this number is less the value of 34.4 m given in the report.
- / In our opinion, if this evaluation is intended to conclusively establish the extent of the Hazard Lands and the QCA regulated area, it should cover the entire shoreline and be based on a full technical engineering review. The findings, once accepted, should be transferred to the Topographic Survey and added to all prepared plans (i.e. Site Plan, Grading Plan, etc.) to clarify the nature and extent of works within the hazard area and to inform the SPC and QCA permitting process.

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- / Lastly, we note that the QCA comments confirm that a permit will be required for shoreline/escarpment excavation works, but that this work appears to have already been completed between 2013 and 2015, based on aerial photography. We are not aware of the QCA issuing any permits nor, however, stating any objections to the works. These factors must be clarified through the technical review on the ZBLA and SPC applications.
 - / Lastly, we recommend that PEC consider retaining peer review QP to review and comment on the acceptability of the technical aspects of the report (i.e. methods, use of aerial images, etc.)

The Erosion Hazard Assessment was required by Quinte Conversation Authority as part of the necessary permitting for the construction that is underway at the port.

Environmental Evaluation

- / We understand from our review that site work on the lands and along the shoreline was previously done, prior to the opportunity for Environmental Evaluation to confirm whether this was appropriate. Analysis of historic aerial images shows tree removals and a change in the shoreline between 2013 and 2015. We are not clear what assessment and/or analysis was done, nor approval/permits received, and mitigation measures implemented, prior to this work. In our opinion, the report assumes this condition as established and does not appear to sufficiently address PEC Official Plan policies for Environmentally Sensitive Areas and/or Escarpment Areas, nor for Environmental Evaluations and/or Environmental Impact Statements.

All necessary permits were obtained, for example the fisheries authorization discussed below.

- / The PEC Official Plan defines an Environmental Evaluation as: *“...an assessment of the impact on the environment that may be expected from a proposed development concept. The evaluation will include an inventory and description of a site’s physical characteristics that will be affected or that might reasonably be expected to be affected directly or indirectly. The evaluation will determine the appropriateness of the development or alternatively identify actions that may be required to prevent, change, mitigate, remedy and monitor the effects upon the environment by the proposed development. The terms of reference for an environmental evaluation shall be identified by the County together with the appropriate government agencies. An Environmental Impact Study (E.I.S.) as outlined below may be required to complete the evaluation.”*

Noted.

- / On top of general provisions described in these two sections, an Environmental Evaluation is called for in 1.2.6.c), and 1.7.5-8.

Noted.

- / The PEC Official Plan Escarpment Policies (1.7) describe the EE in further detail. *1.7.6 An Environmental Evaluation shall analyze the specific limitation to and impacts of development of the subject lands as a result of the existence of the escarpment on the property. Reports will be tailored to each situation. However, an Environmental Evaluation should generally address the following matters: sewage disposal facilities/soil depth; landscaping; water supply; building envelopes; erosion control; effects on fish and wildlife habitat; and surface drainage (quantity and quality of water).*

Noted.

- / The Environmental Evaluation prepared by XCG is provided by the applicant as a response to staff comment on the original proposal that such a report is required as per Part III sections 1.2.6 and 1.2.7. In general, the Environmental Evaluation satisfies the expectations as they are laid out in the PEC OP, although several gaps remain:

- The applicant has not demonstrated whether the MNRF was consulted regarding the Terms of Reference for the Environmental Evaluation, as per PEC OP

Refer to the Revised Environmental Evaluation. XCG is not aware of pre-consultation with the MNRF, however, the Environmental Evaluation prepared by XCG follows the Official Plan requirements as referenced above.

- As per County policy, the Environmental Evaluation is meant to assess the impact on the environment that may be expected from a proposed development concept. As far as the Environmentally Sensitive Area (i.e., Picton Bay as a fishery) is concerned, the evaluation defers mostly to the DFO permit and accompanying conditions. Additionally, improved SWM techniques are discussed, which we interpreted as suggesting that instead of surface water draining at a point load into the Bay, it will slowly recharge groundwater systems. In this sense, the EE meets the expectations of Part III Section 1.2 of the PEC OP, policies for Environmentally Sensitive Areas.

Noted.

- As far as the Escarpment Constraint, XCG appears to have used the sections provided in the Escarpment policies 1.7.6 a) – g) to frame the report, but the report does not consistently meet the test laid out in 1.7.6 that the report “shall analyze the specific limitation to and impacts of development [...] as a result of the existence of the escarpment on the property”. In other words, the topics laid out in 1.7.6 a) - g) are discussed generally, but not consistently described in the context of the existence of the escarpment.

Refer to Section 3.1 to 3.7 in the Revised Environmental Evaluation.

- Section 3.6 of the report is titled “Surface Drainage and Erosion Control”, and focuses entirely on stormwater management measures that have been implemented in the past or will be implemented through the most recent plan. No assessment is made of how surface drainage is affecting the escarpment. Section 4.1 connects the SWM measures to erosion control generally on the site. A technical review of the SWM details will be necessary to determine whether the proposed measures are adequate; however, it appears that there has been no direct assessment of how the proposed development could impact the escarpment itself through surface drainage and erosion control measures. The only context in which erosion control is mentioned with specific reference to the escarpment is that “the size of the active area along the shoreline escarpment is not expected to increase. Thus, the existing naturally vegetated areas and areas that are being naturally reclaimed by vegetation will not be disturbed by site activities.” The proposed access road appears to cut through/across one of the areas highlighted as an area being naturally reclaimed by vegetation, and no assessment is provided as to how increases/changes in traffic or the introduction of tourists might affect the escarpment here.

Refer to Section 3.6 and 3.7 in the Revised Environmental Evaluation.

- A vegetation program is discussed for the existing and newly constructed berms to control erosion. While these measures are likely good practice, it is not clarified how erosion of the berms along White Church Road relates to either the ESA or the Escarpment, which are meant to be the focus points of the Environmental Evaluation.

Refer to Section 3.4 in the Revised Environmental Evaluation.

- The report contains conflicting information concerning the effects on habitat as it pertains to the escarpment. “The Picton Terminals site provides [...] bird habitat along the limestone shoreline cliffs. [...] The proposed construction activities are not expected to have significant impact on the terrestrial receptors, as the areas under construction are within previously used and disturbed portions of the site”. In section 4, Mitigation Measures, the report goes on to say “To mitigate potential loss of nesting habitat for barn and cliff swallows due to on-site operations, artificial nesting areas were installed” and goes on to characterize some of the measures. It is unclear why measures to mitigate loss are discussed if the proposed development will not have significant impact. Additionally, it is not clear why past measures are being discussed as a solution to a proposed development.

Refer to Section 4.5 of the Revised Environmental Evaluation.

- Finally, no mention is made of how building envelopes should respect the escarpment.

Refer to Section 3.5 of the Revised Environmental Evaluation.

Policy 1.7.7 of the PEC OP states that “*The Environmental Evaluation shall detail the manner in which the development may be accommodated, if feasible and shall include a detailed lot grading plan consisting of a survey of the property identifying with contour intervals and the top of bank indicated; slope and depth of overburden; drainage course characteristics; forested areas; and the proposed buildable area and on-site services.*”

1. The grading plan provided with the revised submission does illustrate some of these aspects. However, depth of overburden is not shown. The grading plan does illustrate the Top of Bank. A consistent 30m setback is shown from the shoreline. This does not adhere to OP Policy 1.7.9, which states that the minimum setback from top of slope bank should be at least 15 metres. It is not clear where the 30m setback was derived from, and at many points it appears to be less than 15 m from the top of slope. As noted, above the Site Plan and Grading Plan should be coordinated with the Topographic Survey and an accepted technical delineation of Hazard Lands as per QCA requirements.

No buildings are located within 30 metres of the top of bank. The zoning by-law amendment seeks to permit open storage within this setback due to the nature of the transshipment and port operations which require the removal and storage of cargo in proximity to the ships. The Grading Plan, included in the Stormwater and Drainage Report dated January 24, 2019, received MECP approval per the submitted letter dated March 2, 2020. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan.

/ Lastly, we recommend that PEC consider retaining peer review QP to review and comment on the acceptability of the technical aspects of the report (i.e. methods, use of aerial images, etc.)

Comments related to the Environmental Evaluation have been addressed. The Quinte Conservation Authority is the appropriate review agency. Further peer review, beyond that of IBI Group, is not necessary.

Phase 2 Interim Action Plan

/ We note the applicant’s response letter as indicating these reports were provided to address PEC requests for a Geotechnical and Hydrogeological Assessment in the May 9, 2019 letter. It is our understanding that the PEC staff request relates to the need to understand site development related measures, including grading, SWM, groundwater, construction requirements for servicing infrastructure, and to also partly inform the Environmental Evaluation report.

Noted.

/ In our opinion, these two reports highlight the sensitivities of this location, history of environmental impacts, and the potential impacts of the proposed development and proposed uses on natural heritage and public health and safety, including water features.

Noted.

/ We recommend that PEC consider retaining peer review QP to review and comment on the acceptability of the technical aspects of the report (i.e. methods, use of aerial images, etc.)

Refer to the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020. Further peer review, beyond that of IBI Group, is not necessary.

Stage 2 Archaeological Assessment

/ We note that the report recommendation of: The subject property tested during Stage 2 excavation has been assessed and found to contain no significant archaeological resources. No further work is required within the study area

This assessment has now been cleared by the Ministry.

/ Based on this recommendation, we believe no further work is required, and that a Holding Symbol as originally proposed in the applicant’s draft ZBLA is no longer required for these purposes.

Noted. The proposed Holding Symbol related to archaeological work has been removed from the updated zoning by-law schedule and amendment text.

/ MOTCS acceptance/clearance letter should be obtained with respect to this report, prior to proceeding.
A clearance letter was received from the Ministry of Heritage, Sport, Tourism, Culture Industries regarding the review and entry of the Stage 2 Archaeological Assessment into the Ontario Public Register of Archaeological Report. Refer to the MHSTCI Clearance Letter.

Fisheries Act Authorization Letter from the Department of Fisheries and Oceans

/ This letter provides authorization for “the carrying on of your proposed work, undertaking or activity that results in serious harm to fish arising from shoreline infill in Picton Bay Terminal”.

/ The letter describes works as: Infilling a portion of a privately leased water lot to facilitate the operation of the existing port. This shall be accomplished by installing a sheet pile wall around the existing ‘dolphin structures’ and backfilling with clean aggregate material.

/ Our review indicates this work pertains to the site just northeast of the conveyor, shown as a gravel surface with temporary lighting and intended in part for Tour Boat disembarking and a Tour Bus Pick-up Area, as well as an area to facilitate loading/unloading activities.

/ The letter refers to Erosion and Sediment Control and Contingency Measures provided by the application through submission to the DFO. Plans and measures supporting this submission were not provided to us. The applicant should provide such information in support of the letter, to confirm that the plans and materials submitted in the ZBLA and SPC applications are consistent and coordinated with DFO approval.

Refer to the response letter prepared by XCG Environmental Engineers & Scientists re: In Water Works and Department of Fisheries Approval dated April 23, 2020.

/ We note that some of this work would also be subject to QCA regulations and permitting, and we are again not aware if such permit has been issued.

/ In our opinion, this underscores the value of a technical review committee to ensure coordination of drawings and materials, consistent review process, and to determine oversight and correct sequencing order of submissions and, if warranted, approval.

Comments provided have been addressed by XCG. Construction at the port has been done so under consultation with QCA. Review of the planning applications is on-going. We do not believe a technical review committee is necessary or would add any value to the process.

Ministry of Natural Resources and Forestry Letter re: Aggregate Excavation

/ The letter provides MNR opinion with respect to temporary construction works and removal of aggregate works in relation to such. The MNR position outlines requirements for an Aggregate Resources Act license for excavation that occurs after construction is completed or if additional material is excavated in other areas.

/ In our opinion, this letter matches statements in the applicants original PJA indicating that no aggregate extraction operation is proposed, nor that one previously existed. This touches on the appropriate Zoning for the lands we discuss in later sections of this letter.

Refer to Section 3.0 Policy + Regulatory Review for a detailed discussion related to the aggregate extraction potential of the site. It is appropriate to maintain the Extractive Industrial (MX) Zone for the site since the resource is present on the subject site. Should resource extraction be undertaken on the subject site, necessary Ministry of Natural Resources and Forestry aggregate licensing would be required.

Comments on Supplemental Submission- Development Services Engineering

/ Comments were provided dated October 16, 2019. The comments state/request:

These comments were not previously provided to the project team. Responses are provided below.

/ 1. Provide detailed plans for tour boat access points, pedestrian access routes & access paths, parking zones, etc. as well as proposed tour boat activities, collecting local passengers, or Transport Canada Approval

Refer to the Revised Site Plan, the Vehicle Movement Plan, and the Cruise Ship Docking Use Concept Plan.

/ 2. Provide traffic impact study as it relates to tour boats activities, and updated site traffic data
Refer to the Traffic Impact Study Addendum. Additional detail is provided regarding the cruise ship docking use.

/ 3. Provide detailed drawings of proposed new buildings / new gate house
The building has not been designed but will be in the same style as the existing buildings on-site. Detailed drawings will be provided at a later date.

/ 4. Provide landscaping drawing & Provide lighting drawing
Refer to the Revised Site Plan.

/ 5. Provide groundwater monitoring reports & ECA Application on Salt management
The 2018 Annual Monitoring Report prepared by XCG Environmental Engineers & Scientists dated January 31, 2019 was submitted in July 2019. Refer to the approved ECA, Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020.

/ 6. Provide proposed grading drawing – confirm no surface water migration into the Bay
The Stormwater Management and Drainage Report, which includes the Grading Plan for the entire site, was approved per the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan.

/ 7. Provide proposed protocol in event of visual acknowledgement of silts or contaminants in the Bay
The Stormwater Management and Drainage Report, which includes the Grading Plan for the entire site, was approved per the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan.

/ 8. Provide accurate OLS survey of County Road Allowance and possible encroachments
The survey is accurate. The grading plan reflects work completed to date and future work to be undertaken. The line on the survey indicates 15 metres from the centre line, therefore no widening is anticipated.

/ 9. Public Works requires road widening
The line on the survey indicates 15 metres from the centre line, therefore no widening is anticipated.

/ The comments do not confirm the material reviewed. These comments are generally consistent with our review and comments from a land use planning perspective. The applicant should review these comments and provide a response through subsequent submissions detailing how they have been addressed.
Refer to the responses provided in this Technical Response Letter and to the Planning Addendum Report.

Comments on Supplemental Submission- Quinte Conservation Authority

- / QCA staff provided a letter dated July 11, 2019 regarding a Section 59 clearance for source water protection. The letter concludes:
- / *A review of the property and the proposed activities was completed by the municipally-appointed Risk Management Officials at the Quinte Conservation Office. The subject property falls within the Intake Protection Zone 3b for Picton's municipal drinking water supply. Because this zone is the least vulnerable of all zones for the Town of Picton's drinking water intake, with a vulnerability score of 6, no significant threats can occur and no clearance notice is required.*

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- / Although no clearance notice or risk management plan is required*, due to the high vulnerability of the drinking water intake, coupled with the numerous activities taking place on the subject property and surrounding area, the Source Protection department at Quinte Conservation is supportive of the greatest protection that can be purveyed on the subject property to ensure that no chemicals of concern leave the property and migrate to the intake and that no future drinking water issues are created.
- / It is not clear what is intended by the “greatest protection that can be purveyed on the subject property to ensure that no chemicals of concern leave the property and migrate to the intake and that no future drinking water issues are created”. While we support this general position, the request should be elaborated by QCA with specific measures relative to the property and the applicants’ technical material.

Noted.

- / QCA staff also provided a letter dated December 18, 2019 which we understand is a response letter to the Technical Circulation sent by PEC. The letter states:
- / Staff reviewed the stormwater design for Picton Terminals from a Total Suspended Solids perspective. Hazardous substances and their controls should be reviewed by MECP. The stormwater controls are reasonable. The drawings should be updated to clearly indicate all details required to construct the stormwater management works. This includes but is not limited to the design, location and elevation details of the step pools, rock check dams, and details of the sediment basin catch basin manhole with goss trap.

These comments were not previously provided to the project team. The Stormwater Management and Drainage Report, which includes the Grading Plan for the entire site, was approved per the Ministry of the Environment, Conservation and Parks Letter re Environmental Compliance Approval, dated March 2, 2020. A revised Grading and Drainage Plan is being submitted which is consistent with the approved MECP grading plan.

- / Consistent with statements throughout this letter, these responses highlight apparent gaps in coordination and review, and the requirements the applicant must satisfy with respect to submission, review and approval processes outside of the planning applications. We believe these could be addressed through a technical review committee process.

Comments received have been addressed through this Technical Review Letter and the Planning Report Addendum. A technical review committee is not necessary.

- / Notwithstanding that, it should be confirmed if QCA staff have reviewed and have comments on:
- Grading Plan
 - SWM and Drainage Report
 - Environmental Evaluation
 - Annual Monitoring Report
 - Phase 2 Interim Action Plan
 - Erosion Hazard Assessment
 - DFO Letter and accompanying applicant submission material

Acknowledged. The County should ensure that the Quinte Conservation Authority is satisfied and reviewed all reports and supporting documents. Approval has been previously obtained from federal and provincial agencies.

Comments on Supplemental Submission- Transport Canada

- / Staff from Transport Canada provided comments via email on November 8, 2019, stating: *Transport Canada has no concerns in relation to areas within our mandate regarding the proposed by-law changes. However, I would like to note that Transport Canada’s Navigation Protection Program (NPP) is responsible for the administration and enforcement of the Canadian Navigation Protection Act (CNWA). The primary purpose of the CNWA is to authorize and regulate works and obstructions that may risk interfering with navigation in waterways listed on the Schedule to the CNWA. If in the future, an owner of works proposes to construct, place, alter, rebuild, remove or decommission works that are in, on, over, under, through or across any*

navigable water, they are required under the CNWA to apply to Transport Canada for an approval or seek authorization through the public resolution process.

- / We understand that this comment pertains to the proposed ZBLA for both the Transshipment use and the Tour Boat Docking use.
- / The email also states: *Please also be advised that Transport Canada's Ontario Regional Marine Safety and Security Branch has regular interactions with the subject property's owners to ensure compliance with applicable legislation and regulations.*
- / We understand that this relationship would continue if a ZBLA is approved for the uses proposed.

Noted.

Comments on Supplemental Submission- Mohawks of the Bay of Quinte

- / The Mohawks of the Bay of Quinte ("MBQ") provided comments in a letter which is undated. The letter outlines comments in more detail, but addresses:

1. Impacts on Fish and Habitat

No impacts to fish are anticipated. As of July 2019, 515 square metres of near shore fish habitat were created as required by the Department of Fisheries and Oceans. Refer to the response letter prepared by XCG Environmental Engineers & Scientists re: In Water Works and Department of Fisheries Approval dated April 23, 2020.

2. Dredging

No dredging will occur.

3. Contaminants Disturbance

No contaminants disturbance will occur. Ships will continue to travel along the existing shipping channel in the centre of the Bay. Ships have been travelling this route since the 1950s or earlier.

4. Shipping

The shipping use of the site is regulated by the Federal Department of Transport Canada and Canada Border Services Agency (CBSA).

5. Goods and Materials to be Shipped

The shipping use of the site is regulated by the Federal Department of Transport Canada and Canada Border Services Agency (CBSA).

6. Storage

The location of outdoor storage will be regulated by the site plan, the County, and CBSA.

7. Planned Corridors and Transportation System

The uses will rely on existing road, highway, and waterway transportation systems and channels.

8. Tour Boat Docking

Cruise ship docking will form a small part of the existing deep water dock function. The site will continue primarily as a bulk cargo destination, but will include a secondary and complementary cruise ship docking facility.

- / The issues raised, while providing comments and perspective from the MBQ position, touch on various matters related to the technical matters covered through our application review. The applicant should review these comments and provide a response through subsequent submissions detailing how they have been addressed.

We did not receive these comments, but we are pleased to assist the County with a response as noted above.

Comments on Supplemental Submission- Public

- / Numerous letters and emails of support for the ZBLA have been received. All have consistent language indicating that “Rezoning would allow the company to have one, uniform zone across the entirety of their property, permitting them to conduct business activities across their entire site”. This may show a lack of understanding of the extent of the proposed uses and the potential impacts of the proposed ZBLA.
- / Further, there is mention of the “possibility of welcoming Great Lakes cruise ships”, citing potential positive tourism and economic impacts, despite the proposal providing limited details of this use (see above re: deficiencies in information/details).
- / Several comments come from organizations and members of the public not residing in the community (i.e. Kingston Economic Development, Town of Greater Napanee BIA, residents of Napanee), and speak to the Owner of the lands and not the proposal.

Noted. Refer to the Planning Addendum Section 3.0 Policy + Regulatory Review for discussion regarding the economic benefits of the Cruise Ship Docking use.

Planning Review – Summary Planning Position – Proposed Transshipment Use and Permitted Extractive Industrial Uses

- / We have concerns with whether the proposed expansion of the Transshipment Use will truly implement the Official Plan vision and provide the regional benefit identified by the applicant for a multi-modal port benefiting the County and a wider Region, as opposed to serving the needs of the individual business owner for storing material. This touches on the extent of outdoor storage proposed and whether this component is truly an accessory use or is in fact the main use proposed.

Refer to Section 3.0 Policy + Regulatory Review of the Planning Addendum. Outdoor storage will be accessory to the transshipment use as it is not always possible to immediately remove bulk shipments from the subject site. Without a transshipment use on the subject site, outdoor storage would not be required. Refer to the Planning Addendum for further details.

- / Further, we have concerns with ongoing/permitted/possible future aggregate operations in addition to the proposed Transshipment Use. The potential overall intensity of extractive and industrial operations which could be permitted through existing and proposed use permissions, including machinery, equipment, large vehicles (including movement on/off and through the site), noise, and emissions, could be substantial and greater than that presented in the application. This does not appear to be addressed in the justification of and proposed provisions in the ZBLA which seeks to maintain the Extractive Industrial permissions, despite confirming that no aggregate extraction was historically present nor is one proposed. This is stated in recognition of the LNC status of the Transshipment use, including outdoor storage of materials on a portion of the lands. In that sense, the real question is whether expansion of the use, including large amounts of outdoor storage, to almost the entire site is appropriate. In our view, it is a proposed expansion that is substantial and which needs to be carefully considered and managed, particularly with respect to impacts on natural hazards and public health and safety.

Refer to Section 3.0 Policy + Regulatory Review of the Planning Addendum. The Ministry of Natural Resource and Forestry (MNR) was circulated and consulted regarding the proposed applications and ongoing use of the subject site. A letter received from the MNR dated September 2, 2018 and submitted in support of the applications in July 2019 indicates that on-site aggregate extraction may occur for the purpose of construction for a period of five (5) years.

- / We note that “Transshipment” is a term not specifically defined in Provincial Policy, Official Plan Policy or ZBLA provisions. Consideration should be given to clearly defining the proposed use and introducing such definition in the ZBLA as it pertains to this site-specific permission.

Refer to the Planning Addendum Report. The following definition for “Transshipment” is proposed as part of the zoning by-law amendment text: “Transshipment: means the shipment of goods or containers to an intermediate destination, then to another destination, and may include bulk commodities such as iron ore,

aggregate, road salt, farming and steel products, bio-mass, scrap steel and barrels together with any use or accessory use”.

- / Further, given our concerns and the information provided by the application, we believe consideration should be given to limiting permitted uses to those only proposed and discussed in the submitted material. (i.e. shifting away from Extractive Industrial to General Industrial based on a port for transfer and shipment of goods to other destinations). There is no proposal in the supporting material for a specific extraction use, rather the use is storage and movement of goods.

Refer to Sections 3.0 and 4.0 of the Planning Addendum Report. The Ministry of Natural Resource and Forestry (MNR) was circulated and consulted regarding the proposed applications and on-going use of the subject site. A letter received from the MNR dated September 2, 2018 and submitted in support of the applications in July 2019 indicates that on-site aggregate extraction may occur for the purpose of construction for a period of five (5) years.

- / Notwithstanding the above, we do agree that, subject to definition and a thorough planning process, and based on appropriate zoning and development controls, a Transshipment use, operating truly as a deep-water port to facilitate goods transfer and movement through the County and a wider region, would be appropriate for the subject lands and would conform to and implement the Official Plan. The key issues for implementation of such use are protection of public health and safety and protection, restoration and/or enhancement of natural heritage.

Noted. Refer to the Planning Addendum Report.

Planning Review - Proposed Tour Boat Docking Use

- / In our view, the proposed Tour Boat Docking is poorly defined and not adequately justified. On the one hand, the applicant's submission discusses potential tourism and economic impacts of this use, while at the same time limiting it to a floating dock with a bus-pick-up area and no other dedicated facilities or works. We question the ability of the site to attract high-quality tourist based cruises without any dedicated facilities that passengers and operators would require or prefer. As an example, the Planning Addendum letter provided by the applicant appears to suggest that tour buses will be travelling the dock access road through what is identified as a 2m wide flat-bottom swale. Further, there is no movement diagram showing how a vehicle such as a tour bus would navigate this area, including turnaround on the gravel area adjacent to the floating dock. Otherwise, the applicant is suggesting that this route is a pedestrian travel route for tourists disembarking ships, which would require them to walk through a swale from the platform up an access road to an undefined pick-up area above the top of slope.

Refer to Sections 1.0, 2.0, and 3.0 of the Planning Addendum Report. Refer to the Vehicle Movement Plan prepared by Josselyn Engineering dated April 8, 2020. Refer to the Cruise Ship Docking Concept Plan dated May 6, 2020. A supplemental planning letter dated September 13, 2019 was submitted to the County which provided additional detail related to the cruise ship docking use. The site will continue primarily as a bulk cargo destination but will include a secondary and complementary cruise ship docking use. The cruise ships provide all necessary passenger facilities, such as washrooms or restaurants on-board, therefore it is not necessary for the subject site or dock to provide these facilities. The dock will simply provide a point of access to allow tourists to visit the County and surrounding region. Refer to the Planning Addendum Report for further detail.

- / Further, in our view the introduction of Tour Boat Docking uses creates conditions for compatibility concerns between the tourism use and the permitted and proposed industrial and Transshipment uses. Even with the Planning Addendum submission, it is unclear how tourists will be docking, disembarking, and moving through the site and out to the wider area (and vice versa) and whether there are health and safety risks associated with moving tourists through an active extractive and/or industrial operation. The concept plan does not address these issues and is absent any plans for tourist-specific facilities. This is discussed in the planning addendum where it is confirmed that no facilities are proposed. As a general comment, we question the

desirability of a tourism use which lands, disembarks and travels through an active industrial operation. This interface could easily jeopardize the viability of the tourism operation, or vice versa reducing the claimed economic impacts from both proposed uses for the County and the wider region.

Refer to Sections 1.0, 2.0, and 3.0 of the Planning Addendum Report. Refer to the Vehicle Movement Plan prepared by Josselyn Engineering dated April 8, 2020. Refer to the Cruise Ship Docking Concept Plan dated May 6, 2020. The site will continue primarily as a bulk cargo destination but will include a secondary and complementary cruise ship docking use. The cruise ship docking use of the site will function only as a small aspect of the transshipment use and safety of passengers will occur. Cruise ship passengers will spend very little time at the subject site as they will primarily be transferring between cruise ships and buses, making use of a proposed catwalk. Passengers will be transferring directly to and from chartered buses, with no opportunity to remain on-site. The cruise ships provide all necessary passenger facilities, such as washrooms or restaurants on-board, therefore is it not necessary for the subject site or dock to provide these facilities. The dock will simply provide a point of access to allow tourists to visit the County and surrounding region. Refer to the Planning Addendum Report for further detail.

/ With respect to compatibility with adjacent uses, the applicant's submission refers to Part III, Section 2.4.5 of the OP, which addresses compatibility with the nearby cement operation. The submission refers to this policy to bolster the argument that proposed Transshipment use is appropriate on the subject lands. But the discussion fails to note the Tourboat Docking use, which we believe could legitimately present "(i)ncompatible development that could jeopardize the use of this land for industrial/commercial uses" which it states "shall not be permitted".

Refer to Section 1.0 and 3.0 of the Planning Addendum Report. The deep water dock is a commercial function of the site. both the transshipment uses and the cruise ship docking use will utilize the existing deep water dock. The site will continue primarily as a bulk cargo destination but will include a secondary and complementary cruise ship docking use. Deep water ports, such as the Toronto Port, operate similarly, in that they receive goods, cargo, and people at their port. The proposal for Picton Terminals to expand the permitted uses associated with the deep water dock is logical and common with other ports and will not impact the existing port of adjacent properties. Permission for cruise ship docking at the site will not jeopardize the use of this land for industrial or commercial uses. Refer to the Planning Addendum Report for further details.

/ Further, the TIS does not address the tourism use, and thus does not present the full picture of the proposed development. It does not appear to have been updated from the original submission. There is no substantial discussion of integrating the proposed tourism use with public transportation.

Refer to the Traffic Impact Study Addendum, prepared by McIntosh Perry Consulting Engineers, dated April 2020. The Addendum reviews the potential traffic issues related to the cruise ship docking use and indicates that the traffic impacts of vehicles associated with the cruise ship docking use of the site are anticipated to be negligible during peak hour conditions. No traffic related concerns associated with cruise ship docking on the subject site have been identified. Refer to the Addendum for further details.

/ While we question the validity and viability of the proposed "Tour Boat Docking" use, if maintained and permitted in the ZBLA, consideration should be given to physically separating permitted and proposed uses on site, and to maintaining this separation through physical measures, zoning boundaries, and buffering.

The proposed cruise ship docking use will form a small part of the existing deep water port use of the site. Specific areas for passenger disembarking and embarking as well as tour bus movement is indicated on the Vehicle Movement Plan and the Cruise Ship Docking Use Concept Plan. Refer to the Planning Addendum for further details.

Comments on Planning Justification Letter, Supplemental Submission Letter, and Planning Addendum - PPS 2014

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- / In our review of the application material, we note the applicant has provided planning commentary with respect to consistency of the proposed ZBLA and proposed development with the PPS, specifically in the Planning Justification Letter dated November 20, 2018, and the Planning Addendum Letter dated September 13, 2019.

Noted.

- / In our opinion, the applicant has not sufficiently addressed Sections 2.0 - Wise Use and Management of Resources nor Section 3.0 - Protecting Public Health and Safety. It appears that the PJL provides a planning opinion on these sections without specific review and reference to the supporting material which would touch on these matters (i.e. the Environmental Evaluation and Erosion Hazard Assessment were submitted after the PJL was written, and the PJL was never updated to reflect this, etc.). In addition to our comments on the acceptability of the various reports and the need to vet through peer review, the applicant's submission leaves the impression that none of the supporting material was used to develop a comprehensive approach to the proposed development nor the ZBLA and SPC applications, but rather provided after the fact upon request.

Refer to Section 3.0 of the Planning Addendum Report.

- / We reiterate that the applicant should provide a comprehensive Planning Justification Report outlining how the proposed development addresses issues raised through the review of the applications, and which would include a more detailed and thorough review of PPS policies based on the supporting materials.

Refer to the Planning Addendum Report.

Comments on Planning Justification Letter, Supplemental Submission Letter, and Planning Addendum - PEC Official Plan

- / Similar to our comments on the PPS, it is our opinion that the applicant's submission does not sufficiently consider and justify the proposal with respect to the County's Official Plan. Our greatest concerns remain the whether the proposed use truly implements the vision in the Official Plan for a deep-water port; the proposal's impacts to public health and safety and natural heritage; and the validity and compatibility of the proposed Tourboat Docking use.

Refer to the Planning Addendum Report.

- / With respect to the proposed Transshipment use, our comments remain that subject to a thorough planning process and the appropriate planning controls consistent with the Official Plan, such use would be supportable on the subject lands.

Noted.

- / With respect to natural heritage, two features of this site trigger consideration of the County's environmental policies. First is the adjacency to Picton Bay. All of the waterbodies Shown on Schedule 'Environmentally Sensitive Areas' in the Official Plan are considered fisheries. The policies for ESAs are in provided in 1.2 of the O.P. Second is the fact that the shoreline itself is an Escarpment, which is defined in 1.7 of the O.P and shown on Schedule B, 'Environmental Constraints'.

Refer to the Revised Environmental Evaluation. Refer to the response letter prepared by XCG Environmental Engineers & Scientists re: In Water Works and Department of Fisheries Approval dated April 23, 2020.

- / In the Original PJL, the applicant did not provide any comments concerning the Environmentally Sensitive Area and provided minimal comment about the Escarpment feature. Further, the discussion did not fully discuss or portray the various site works, including substantial escarpment excavation. Based on the July 26 covering letter to the Revised Submission, it appears County Staff requested an Environmental Evaluation as per 1.2.6 and 1.7.6. Given that no additional comments were provided by the applicant, the original PJL is deficient in this manner.

Refer to the Revised Environmental Evaluation. No changes are proposed to or within the existing Environmental Protection Zone area of the site.

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- / 1.2 Environmentally Sensitive Areas: 1.2.2 *“Environmentally Sensitive Areas require that proper management practices be incorporated in order to protect the resource feature or species for future generations. Owners of land denoted as an Environmentally Sensitive Area are encouraged to be good stewards of the land and to cooperate with provincial agencies in the implementation of resource management practices.”*

Noted.

- / A letter from DFO is included with the revised submission, which authorizes the proposed work, and outlines conditions which must be adhered to, including a maximum disturbance area, habitat reconstruction measures, seasonal restrictions on in-water construction and monitoring. Because the existence of the fishery (i.e., Picton Bay) is what triggers Environmentally Sensitive Area considerations for this development application, the authorization from DFO outlines materials submitted by the applicant which should be provided to confirm consistency with the ZBLA and SPC submissions, and be coordinated with other required processes such as QCA permits. Further, we believe establishing a technical review committee would assist with implementing this policy.

As noted in this comment, the required approval has been received from the Department of Fisheries and Oceans. A technical review committee is not necessary.

- / 1.2.5 *“It is intended that Environmentally Sensitive Areas be conserved and protected to the greatest extent possible, [...] Where development is proposed on or adjacent to an Environmentally Sensitive Area, alternative locations for the proposal should be fully explored [...]”*

Noted.

- / 1.2.6 *“All applications for development on or adjacent to an Environmentally Sensitive Area shall be subject to: a) an investigation of alternatives to the development in the proposed location”*

Noted.

- / The applicants did not provide any commentary on how alternative locations have been explored. Given that the proposed uses of Transshipment and Tour boat docking are necessarily attached to a waterbody, and that all waterbodies in PEC are ESAs, such an exploration should be included. The related issue is the various site works which have been done (i.e. escarpment excavation) which unfortunately seems to have preceded consideration of impacts and potential alternatives prior to occurring.

The existing use of the deep water port is supported by PPS (2020) and County policies. The escarpment work was undertaken with all required permits, including from the Department of Fisheries and Oceans and Quinte Conservation Authority, and therefore did not precede consideration of the impacts or consideration of potential alternative locations. No alternatives were explored as this is an existing, long-standing port. Refer to the Planning Addendum Report for additional details.

- / 1.7 Escarpments. The original PJR provided some comments pertaining to the escarpment constraint on the property: 1.7.2 *“It is important that escarpments be preserved from insensitive development and visual intrusion. Such protection also prevents erosion, drainage problems and building damage. New aggregate operations should generally be discouraged from locating on escarpments that are located close to major Provincial highways, County Roads, Lake Ontario and the Bay.”*

Noted.

- / The applicants focused only on the latter half of the policy by providing comment on how the proposed development is not an aggregate operation. A MNR letter authorizing aggregate extraction for the sole purpose of constructing structures associated with upgrades to the shipping terminal is included in the revised submission. However, the submission fails to comment generally on any measures being taken to preserve escarpments from insensitive development and visual intrusion. Again, we refer to the site works which have already occurred.

Refer to the response to section 1.7.2 in Section 3.0 of the Planning Addendum Report.

- / 1.7.3 *“In order to prevent erosion, maximum vegetation and soil will be retained on escarpments. Building setbacks will be increased to prevent their loss or damage, and to soften the visual impact. New driveways accessing escarpments should be limited in length and number.”*

Noted.

- / The applicants commented that *“Historic photos show that there was little to no natural vegetation growth on the escarpment slope near the proposed and existing docking facilities, dating back to the 1960s.”* While this is generally true, the fact that portions of the escarpment did not have vegetation in the 1960s does not preclude best management practices and acting to introduce vegetation to those portions to prevent further erosion. Site plan measures should be proposed to ensure a revegetation plan for the inactive escarpment portions, similar to that employed on the berms on the property and described in the Environmental Evaluation report. Furthermore, it is our opinion that historic aerial photos demonstrate that the current use of the property has degraded vegetation along the escarpment. In the figures provided in the attachment, aerial photos show the creation of the access ramp and ensuing loss of vegetation along the Escarpment. In their response to 1.7.3 the applicants state that *“work to reduce the grade at the shoreline is being undertaken in accordance with the necessary agency approvals”*. No information is provided as to the timeline of this work, or which specific agency approval has been sought or granted.

Refer to the response to section 1.7.3 in Section 3.0 of the Planning Addendum Report.

- / Finally, the response to 1.7.3 also states that *“No new buildings are proposed to be located adjacent to or along the escarpment”*. The current site plan shows a New Gatehouse and new Covered Storage both in relative proximity to the escarpment. Both proposed buildings are outside a 30m setback from the shoreline, but it is not clear how this 30m setback has been developed (See discussion of erosion report and redline site plan comments suggesting building siting).

Refer to the response to section 1.7.3 in Section 3.0 of the Planning Addendum Report. Refer to the Revised Site Plan.

- / The applicant’s submission notes that truck or transportation terminals are permitted in the Industrial designation, however this use/term is not defined. The Planning Addendum Letter states that this designation permits the proposed Tour Boat Docking use. With respect to this statement, we cannot agree that this is the case. We do not believe the intent behind the policy permission was to permit a commercial and/or recreational Tour Boat Docking use within designated Industrial lands. The applicant’s proposed ZBLA apparently places no restrictions on the Tour Boat Docking use. Therefore, the proposed ZBLA would not be consistent with the PPS if it were to allow for the establishment of a commercial or recreational use over the majority of the lands which are designated for employment.

Refer to the Planning Addendum Report. The following definition for Truck or Transportation Terminal” is proposed as part of the zoning by-law amendment text: “Truck or Transportation Terminal: means the location where freight and passengers either originate, terminate, or are handled in the transportation process. Terminals are central and intermediate locations in the movement of passengers and freight.”

- / However, we would agree that the permission for a Truck and/or transportation terminal would permit a port for the loading/unloading of materials for shipment to other destinations. Our review of the submitted material and the Ontario Superior Court decision indicates that the several of the historic and proposed activities are consistent with shipping activities which would be appropriate on employment lands or in employment areas which are marine-based.

Noted.

Comments on Planning Justification Letter, Supplemental Submission Letter, and Planning Addendum - Draft Zoning By-law

/ We note the proposed Transshipment Use is not defined. Consideration should be given to introducing such a definition in the Draft ZBLA, on a site-specific basis.

Refer to the Planning Addendum Report. The following definition for “Transshipment” is proposed as part of the zoning by-law amendment text: “Transshipment: means the shipment of goods or containers to an intermediate destination, then to another destination, and may include bulk commodities such as iron ore, aggregate, road salt, farming and steel products, bio-mass, scrap steel and barrels together with any use or accessory use”.

/ The Site Plan and Draft Zoning By-law should be carefully reviewed to ensure all provisions required and covered in the Draft ZBLA. Refer to our redline markups on plan for comments and notes (provided as a separate supplement to this letter).

Noted. Refer to Revised Site Plan and Appendix A of the Planning Addendum for the updated zoning schedule and by-law text.

/ The proposed Tour Boat Docking use is also not defined. Further, it introduces what could become a non-employment use without restrictions. While we do not support it, if the extent of the Tour Boat Docking use is primarily a floating dock and transfer point, then ZBLA should limit the use to such and permit no buildings, structures or other dedicated facilities.

Refer to the Planning Addendum Report. The following definition for “Cruise Ship Docking” is proposed as part of the zoning by-law amendment: “Cruise Ship Docking: means a marine facility that interfaces with cruise ships. A cruise ship dock may not include passenger facilities such as washrooms or sewage disposal.” The site will continue primarily as a bulk cargo destination but will include a secondary and complementary cruise ship docking use. The cruise ship docking use of the site will function only as a small aspect of the transshipment use. Cruise ship passengers will spend very little time at the subject site as they will primarily be transferring between cruise ships and buses, making use of a proposed catwalk. Passengers will be transferring directly to and from chartered buses, with no opportunity to remain on-site. The cruise ships provide all necessary passenger facilities, such as washrooms or restaurants on-board, therefore is it not necessary for the subject site or dock to provide these facilities. The dock will simply provide a point of access to allow tourists to visit the County and surrounding region. Refer to the Planning Addendum Report for further detail.

/ The Draft ZBLA Schedule does not identify the individual zones to be rezoned from MX-1 and RU1 to MX-X. **Refer to Appendix A of the Planning Addendum for the updated zoning schedule and by-law text.**

/ Based on proposed uses and statements in the PJJ (i.e. there is no aggregate operation or use on the subject lands), we strongly suggest utilizing the MG zone, modified on a site-specific basis, with list of permitted uses restricted to:

- Warehousing in wholly enclosed buildings
- Transport terminals;

OR

Transshipment Terminal, with provision based on continued existence of deep water port, and defined in site-specific provisions

- Contractor’s Yard (subject to definition review)
- Public uses and utilities in accordance with By-law
- Office, accessory to any permitted use
- Uses, including open storage, buildings and structures accessory to permitted uses
- Consideration for limitation on types of materials which can be stored openly

Refer to Section 4.0 of the Planning Addendum Report for discussion and justification related to the proposed continuance of the Extractive Industrial Zone.

Comments on Planning Justification Letter, Supplemental Submission Letter, and Planning Addendum - Comments on the Site Plan

/ We have provided a redline markup of the site plan with comments, notations and questions. Please refer to that plan.

Noted. Refer to Revised Site Plan.

Summary Recommendation

/ SPC Application: In our opinion, the SPC application is generally confusing and lacking detail and coordination. We do not believe there is sufficient detail in the provided plans and supporting materials to approve the SPC application. Further, we do not support the proposed Tour Boat Docking use (see above) and recommend that all proposed or required structures, facilities, and matters pertaining to the tour boat docking use be removed from the proposed plans.

Refer to the Planning Addendum Report as well as the new and previously submitted supporting documentation.

/ ZBLA Application: In our view, there is not sufficient technical review regarding the submitted material to recommend approval. The range of outstanding comments and lack of coordinated technical review are a concern. In order to proceed with a ZBLA, the process must include a complete and thorough review to confirm compliance with all applicable policies, regulations, requirements and provisions.

Refer to the Planning Addendum Report and responses provided in this Technical Response Letter.

/ Notwithstanding the above, we strongly suggest that any ZBLA brought forward for Council enactment should:

1. Propose a scoped MG zone with permitted uses of:

a. Warehousing in wholly enclosed buildings

b. Transport terminals;

OR

Transshipment Terminal, with provision based on continued existence of deep water port, and defined in site-specific provisions

c. Contractor's Yard (subject to definition review)

d. Public uses and utilities in accordance with By-law

e. Office, accessory to any permitted use

f. Uses, including open storage, buildings and structures accessory to permitted uses

i. Consideration for limitation on types of materials which can be stored openly

It is our opinion that the applicant has not sufficiently justified the proposed amendment for the Tour Boat Docking use, and therefore that any ZBLA brought forward for Council enactment not include any such permissions.

Refer to Section 4.0 of the Planning Addendum Report for discussion and justification related to the proposed continuance of the Extractive Industrial Zone.

/ Application Processing: We strongly recommend that PEC work to establish a technical review Committee to meet with the applicant and retained consultants, consisting of:

1. 1. DFO

2. 2. MBQ

3. 3. QCA

4. 4. MNRF

5. 5. MOECP

/ We also strongly recommend that PEC retain a peer review consultant, or team of consultants, with expertise in natural heritage, groundwater, surface water, fish habitat, contamination, and others as relevant, to assess the historic site modifications and proposed development to ensure approvals for land use, SWM, vegetation, etc. are based in a scientific understanding and connection to all applicable requirements. Statements in the

PJL that the proposal will meet all applicable requirements are not sufficient. Payment of peer review fees should be at the applicants' expense.

Appropriate review agencies are in place with the County responsible for circulating the submitted applications to the necessary review agencies. The applicant has and will continue to address any comments received. A technical review committee is not appropriate or necessary.

We trust these responses address the concerns identified in the correspondence received. If you have any questions or would like to discuss further, please feel free to contact us at 613.542.5454.

Respectfully,



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