



588 Scotland Rd, Odessa, Ontario K0H 2H0
Site 613-471-1112 Main Office 613-386-3033

Date: Oct 1, 2015

Re: Past precedent settling Noise Bylaws administrative amendment request

To: PEC Mayor & Councilors,

As many of you know the Doornekamp Family are the new owners of Picton Terminals formally know as Port of Hallowell. We have had the good fortune of meeting most of you and hopefully we can meet all at our next open house October 17, 2015.

Our reason for this letter is to request a noise bylaw administrative amendment. Currently the noise bylaw allows operations between 7:00 AM – 2:00 AM and requiring maximum decibels level of 60 decibels between 2:00 AM – 7:00 AM.

From the mid 1950's until the late 1970's vessels have been loaded 24 hours a day with Iron Ore and since mid 1990's salt has been unloaded 24 hours a day and continues presently.

The major challenge any Port has is you must work to the vessels schedule to load or unload and this schedule is always 24 hours a day. Therefore the effect of not operating when vessels are at Port 24 hours a day is longer load and unload times because 2:00 AM to 6:00 AM would be a dead time. This dead time creates very large costs which would not be incurred at other Ports all of which load and unload 24 hours a day. These extra costs are deal breakers that will push vessels away from Picton Terminals to other Ports to the east or west. The obvious question is how much business could the noise bylaw restriction move away from Picton Terminals, this is unknown at this point but the fear is potentially 100% of business moving away because 100% of vessels want to unload 24 hours a day.

Therefore Picton Terminals is requesting a Noise bylaw amendment to allow 24 hour a day operation only when a vessel is at Port. Picton Terminals would ensure all noise mitigation measures are in place from sunset to sunrise (i.e. zero back up alarms) and ensure noise levels stay below 70 decibels at nearest receptors from sunset to sunrise.

The Port has been operating since 1950's when a vessel is at port 24 hours a day and Picton Terminals feels this should be allowed to continue with the betterment of 70 decibels limit at the nearest receptors from sunset to sunrise rather than from 2:00 AM-7:00 AM.

We anticipate 30 nights per year the amendment would actually apply. If we foresee this going over 30 nights per year we would inform PEC and at that point we can reevaluate if further operational nights are required and determine if further noise mitigation measures are required.

We would ask to sit down with yourselves to further discussion our request before any decisions are made. We you greatly appreciate if you would considered our requests and if you have any questions please contact us below.

Sincerely,


Ben Doornekamp P ENG.

Picton Terminals Request for Noise By-law Exemption

Executive Summary:

Picton Terminals is requesting a Noise By-law exemption to allow for a 24 hour per day operation when a vessel is at the terminal (formerly known as “Port of Hallowell”). A major challenge at any Port is that it must work to the vessel’s schedule and this includes being available to load or unload 24 hours per day. Anecdotally, vessels have been loaded or unloaded 24 hours per day since the 1950s, first with iron ore, and later with road salt. This type of activity continues presently.

Recommendation:

THAT the report of the Engineering, Development and Works Commission dated October 29, 2015 regarding Picton Terminals request for a permanent Noise By-law exemption be received;

THAT the request for an exemption to the Noise By-law to allow for a 70 decibel noise limit at the nearest point of reception 24 hours per day be granted for one year, subject to Port of Picton obtaining empirical noise measurements and observations by a qualified noise specialist to determine the actual noise levels achieved, the effectiveness of the Port of Picton’s proposed mitigation measures and the impact on sensitive receptors and residents;

THAT this exemption be re-evaluated at the end of the one-year period for possible permanency; and

THAT a By-law to authorize an exemption under the Noise By-law 900-2002 be brought forward to the November 10, 2015 meeting of Council for enactment.

Purpose:

The purpose of this report is to bring forward the request by Picton Terminals for a permanent 24 hour a day exemption to the Noise By-law for Council's consideration.

Background:

Correspondence has been received from Picton Terminals for a Noise By-law exemption to allow for a 24 hour per day operation when a vessel is at the terminal (formerly known as “Port of Hallowell”), a copy of which is attached. With the current By-law, the effect of not being able to operate in the night while vessels are at port is very costly, and makes it difficult to be competitive. Large costs are incurred at the Picton Terminal as a result of the restricted times.

Analysis/Comment:

Picton Terminals proposes to take noise mitigation measures from sunset to sunrise to ensure noise levels stay below 70 decibels at the nearest point of reception (e.g. quiet or alternative back up alarms, berms). Picton Terminals indicates that this port has been operating since the 1950's, even when a vessel is at port 24 hours per day, and they believe they should be allowed to continue without fear of prosecution. However, respecting the intent of the Noise By-law Picton Terminals proposes the following changes:

- a) increase the permitted decibel level to a 70 decibel limit (currently 60 decibels) at the nearest receptors; and
- b) increase the time restriction upon them to include from sunset to sunrise (currently from 2:00 a.m. to 7:00 a.m.).

Picton Terminals anticipates approximately 30 nights per year when vessels will be at port 24 hours for loading/unloading.

A noise study has not been provided with the request. While the past uses at the port may have been similar to present uses there does not appear to be any records or reports of the real or potential noise impacts of those past uses. Staff does not believe it is prudent to grant a permanent noise exemption while lacking empirical data to support the proposed uses or the alternate noise levels requested. Therefore staff suggests a two-step approach:

1. A one-year exemption using the criteria proposed, during which time Port of Picton obtain empirical measurements and observations by a specialist in noise to determine the actual noise levels achieved, the effectiveness of the Port of Picton's proposed mitigation measures and the impact on sensitive receptors and residents.
2. Should the measured results prove that minimal or no impact exists, then a permanent exemption could be considered. If not, then the one-year exemption could be reconsidered.

Strategic Plan/Priority Implications:

Creating a permanent noise exemption would set a precedent and additional users may request similar treatment.

Financial Implications:

None identified for the recommendations of this report.

Policy Implications:

None identified for the recommendations of this report.

Notice/Consultation:

Various staff and the Port of Picton were consulted in preparing this report.

Other Options:


Council could chose to not grant the requested exemption, in which case Picton Terminals must comply with the current By-law limits.

Attachments:

1. Copy of letter from Picton Terminals dated October 1, 2015

Prepared by: Andy Harrison October 19, 2015
Chief Building Official

Reviewed by: Peter Moyer, P.Eng October 20, 2015
Director of Development Services

Commissioner Approval:  October 20, 2015
R. McAuley, P.Eng., C.B.C.O.
Commissioner of Engineering,
Development & Works

CAO Approval:  October 21, 2015
James Hepburn
Acting Chief Administrative Officer