

Licence Application Decision

(Transportation Network Services - New)

Application #	TNS7101-19	Applicant	Green Coast Ventures Inc.
Trade Name	Whistle, WhistleRide, Whistle Ride Co.		
Principals	Dylan GREEN		
Address	PO Box 1024, Tofino, B.C. V0R 2Z0		
Primary Areas of Operation	<ul style="list-style-type: none"> o Region 1 – Lower Mainland, Whistler o Region 3 – Vancouver Island, excluding Capital Regional District 		
Current Licence	None		
Publication of Application	September 18, 2019		
Application Summary	<p>New Special Authorization: Transportation Network Services Authorization (TNSA)</p> <ul style="list-style-type: none"> • Originating Area Requested: <ul style="list-style-type: none"> o Region 1 – Lower Mainland, Whistler o Region 3 – Vancouver Island, excluding Capital Regional District • Destination Area: <ul style="list-style-type: none"> o B.C. 		
Deadline for Submissions	<p>October 3, 2019</p> <p>November 20, 2019 (2nd set of submissions)</p>		
Submitters	<ul style="list-style-type: none"> • City of Burnaby • City of Delta • City of Richmond • BC Taxi Association • BC Federation of Labour • District of Tofino • Syd's Taxi (1984) Ltd., Meadow Ridge Taxi Ltd., Alouette Transit Systems Ltd., Bel Air Taxi (1982) Ltd., Coquitlam Taxi (1977) Ltd., Port Coquitlam Taxi Ltd., Delta Sunshine Taxi (1972) Ltd., Tsawwassen Taxi Ltd., Garden City Cabs of Richmond Ltd., Guildford Cab (1993) Ltd., Kimber Cabs Ltd., Royal City Taxi Ltd., Sunshine Cabs Ltd., White Rock South Surrey Taxi Ltd., Surdell Kennedy Taxi 		

	<p>Ltd., AC Taxi Ltd., Swiftsure Taxi Co. Ltd., Jatinder Gill dba Oceanside Taxi , Comox Taxi Ltd., Duncan Taxi Ltd., Sunshine Coast Taxi Ltd.</p> <ul style="list-style-type: none"> • Yellow Cab Company Ltd., North Shore Taxi (1966) Ltd., Richmond Cabs Ltd., Bonny’s Taxi Ltd., Burnaby Select Metrotown Taxi Ltd., Queen City Taxi Ltd., Black Top Cabs Ltd., Vancouver Taxi Ltd., Vancouver Taxi Ltd. dba Handicapped Cab, MacLure’s Cabs (1984) Ltd.
Board Decision	<p>The special authorization is approved.</p> <p>Terms and conditions of licence are approved as set out in this decision.</p>
Decision Date	December 16, 2019
Panel Chair	Catharine Read

1. Introduction

[1] The *Passenger Transportation Act*, S.B.C. 2004, c. 39 (the “Act”) regulates the licensing and operation of commercial passenger transportation vehicles in British Columbia. The Passenger Transportation Board (the “Board”) is established under the Act and its powers, duties and functions are set out in section 7. In general terms, the Board has authority to make decisions on licence applications for passenger directed vehicles (e.g., taxis, limousines, and other small shuttle and tour vehicles). With some exceptions, the Act defines passenger directed vehicles to mean commercial passenger vehicles that are being operated to or from locations determined by or on behalf of passengers.

[2] In September 2019, amendments to the Act and the *Passenger Transportation Regulation* (the “Regulation”) came into force which enable the Board to also make licensing decisions for transportation network services (“TNS”), commonly referred to as ride hailing. The Act defines TNS to mean, in part, services respecting the connection of drivers to passengers who hail and pay for the services using an online platform, commonly referred to as an “app”.

[3] This regulatory change followed extensive provincial consultation and deliberation which resulted in, among other reports, a February 2018 Select Standing Committee report entitled “Transportation Network Companies in British Columbia”, a June 2018 report entitled “Modernizing Taxi Regulation” by Hara Associates, and a March 2019 Select Standing Committee report entitled “Transportation Network Services: Boundaries, Supply, Fares and Drivers’ Licences”. These reports have been published and are available online.

[4] The Board also carried out consultations with the taxi industry, TNS companies, the Vancouver Airport Authority and the Vancouver Port Authority on TNS operating areas, fleet sizes and rates in July 2019. The Board published the results of its consultations online

and developed an Operational Policy: Introduction of Transportation Network Services, 2019.

[5] On September 15, 2019, Green Coast Ventures Inc., doing business as Whistle Ride Co. (“Green Coast”) applied for a passenger transportation licence with a special authorization in the form of a TNS authorization (“TNSA”) enabling it to operate ride hailing services in the Lower Mainland, Whistler (Region 1) and Vancouver Island, excluding the Capital Regional District (Region 3) (the “Application”). In accordance with section 26 of the Act, the Registrar of Passenger Transportation forwarded Green Coast’s Application to the Board for determination on September 16, 2019.

[6] Section 28 of the Act governs determinations by the Board about whether to approve, in whole or in part, licence applications for a special authorization such as a TNSA. Section 28 provides that such approval may be granted after the Board considers whether: (a) there is a public need for the services that the applicant proposes to provide under the special authorization; (b) the applicant is a fit and proper person to provide, and is capable of providing, those services; and (c) the application promotes sound economic conditions in the passenger transportation business in British Columbia. If approved, the Board is required to specify the special authorizations to be included in the licence and establish licence terms and conditions, as provided for in s. 28(3) to (6).

[7] For the reasons set out below, the Board approves Green Coast’s Application on the terms and conditions as set out below.

2. Procedural History

[8] Section 26 of the Act requires the Board to publish notice of the Application, which it did on September 18, 2019. Section 27(2) provides that any person may (within the time period specified by the Board and on payment of the prescribed fee) make a written submission to the Board respecting the Application. In relation to Green Coast’s Application, the Board received submissions from:

- City of Burnaby
- City of Delta
- City of Richmond
- BC Taxi Association (“BCTA”)
- BC Federation of Labour (“BCFED”)
- District of Tofino
- Syd’s Taxi (1984) Ltd., Meadow Ridge Taxi Ltd., Alouette Transit Systems Ltd., Bel Air Taxi (1982) Ltd., Coquitlam Taxi (1977) Ltd., Port Coquitlam Taxi Ltd., Delta Sunshine Taxi (1972) Ltd., Tsawwassen Taxi Ltd., Garden City Cabs of Richmond Ltd., Guildford Cab (1993) Ltd., Kimber Cabs Ltd., Royal City Taxi Ltd., Sunshine Cabs Ltd., White Rock South Surrey Taxi Ltd., Surdell Kennedy Taxi Ltd., AC Taxi

- Ltd., Swiftsure Taxi Co. Ltd., Jatinder Gill dba Oceanside Taxi , Comox Taxi Ltd., Duncan Taxi Ltd., and Sunshine Coast Taxi Ltd. (collectively “Syd’s Taxi *et al*”)
- Vancouver Taxi Association members Yellow Cab Company Ltd., North Shore Taxi (1966) Ltd., Richmond Cabs Ltd., Bonny’s Taxi Ltd., Burnaby Select Metrotown Taxi Ltd., Queen City Taxi Ltd., Black Top Cabs Ltd., Vancouver Taxi Ltd., Vancouver Taxi Ltd. dba Handicapped Cab, and MacLure’s Cabs (1984) Ltd. (the “VTA”).

(collectively the “Submitters”)

[9] Green Coast’s Application is one of many TNS licence applications that have been made by various companies since the introduction of the TNS legislative amendments. Many of the Submitters responded to these applications jointly rather than individually and, for the most part, focused on the problems with TNS generally rather than addressing the specific details of this Application.

[10] Some of the Submitters asked the Board to conduct an oral, rather than a written, hearing in respect of the applications received. The Act confers broad authority on the Board to control its own process when making decisions on licence applications. That authority includes discretion to conduct a written, electronic or oral hearing, or any combination of them, as the Board in its sole discretion considers appropriate. For reasons given in a letter to Green Coast and the Submitters on October 30, 2019, the Board determined to follow its usual process of conducting a written hearing.

[11] Section 27(5) of the Act provides that, unless the Board directs otherwise, a person making a submission respecting an application does not, merely because of that submission, become entitled to participate any further in the application process or obtain further information or disclosure respecting the application. On October 30, 2019, the Board issued an Industry Advisory modifying its process for all ride hailing applications to provide greater disclosure to the Submitters and more transparency in its process.

[12] In accordance with the Industry Advisory, on November 6, 2019, the Board sent an application package to all Submitters which included Green Coast’s initial response to the Submitters’ materials as well as the documents provided by Green Coast in support of its Application (TNS Declaration Form, TNS Information Sheet, Business Plan, Cash Flow Projections, Balance Sheet and Income Statements, Resumes, Criminal Record Checks, Signing Authority, BC Registry Service Company Status, and Disclosure of Unlawful Activity and Bankruptcy Forms). The application package sent to the Submitters contained limited redactions which were necessary to protect the confidential business and personal information of Green Coast. The Submitters were provided 14 days to provide further written submissions on the Application. The Board then provided copies of the written submissions received from the Submitters to Green Coast.

3. Green Coast's Application

[13] Green Coast was incorporated on June 20, 2002 as Tofino Bus Services Inc. ("Tofino Bus"), an inter-city bus company operating on Vancouver Island. The corporation changed its name to Green Coast Ventures Inc. on September 16, 2019. Dylan Green, who founded the company, is the president, chief executive officer and chief financial officer of Green Coast as well as its sole shareholder.

[14] Over its 16 years of operation, the company expanded its fleet size from one vehicle to over 30 vehicles to become the largest provider of inter-city bus services, providing services to more communities in British Columbia than any other licence holder in the province. It also provided school bus services, freight services, full-service bus stations, and employee and beach bus shuttle services. The company developed its own Commercial Vehicle Safety and Enforcement certified maintenance and inspection facility in Nanaimo, B.C. Mr. Green recently sold the assets of Tofino Bus to The Wilson Group, another inter-city bus company operating in the province.

[15] Green Coast proposes to bring TNS to the Alberni-Clayoquot and Squamish-Lillooet area, centering its services on the resort communities of Tofino/Ucluelet and Whistler/Pemberton/Squamish. In its application materials, Green Coast describes its app ("Whistle App") as follows:

Whistle is a ride-hailing app focusing on resort towns, where the struggle for transit solutions during peak times is the greatest. The Whistle app matches other industry leaders in quickly connecting passengers with certified drivers, for an upfront fare, from customers' phones. Passengers may also choose to share their ride, aiming to reduce fares for locals who often have to commute from outside of town to work. The founder has operated buses in 40+ BC communities and knows the value of driver training to grow the licensed driver pool in anticipation of peak demand.

[16] During its first year, Green Coast will focus on Tofino and Ucluelet in Region 3 and on Whistler, Pemberton and Squamish in Region 1. First year fleet size goals are 15 vehicles for Region 3 and 30 vehicles in Region 1. Expansion plans will continue to focus on small towns within Region 3 such as Courtenay (Mount Washington, resort community effect) and Parksville/Qualicum (to assist with the growing senior population). With respect to Region 1, Green Coast expects to have some future presence in the Lower Mainland but mainly expects to respond to the transportation demands of the smaller communities so that return trips are possible (e.g. Vancouver to Whistler).

[17] Green Coast relies on Mr. Green's previous experience operating a transportation company and knowledge of resort communities to establish that it is fit, proper and capable. Green Coast points out that resort communities, such as Tofino and Whistler, have the following unique transportation needs which it specializes in:

- resort communities experience significant population changes due to influxes of tourists and temporary residents who support tourism services;
- population variations occur by season, month, week, weekdays, and holidays;
- resort communities experience mass arrivals of tourists, many of whom have luggage requirements;
- resort services workers often live outside the resort town and must commute to work;
- typical transportation companies struggle to meet peak demand in resort communities due to the financial impossibility of maintaining staff and fleet at peak levels during the off-season;
- resort services workers often work several part-time jobs; and
- locally owned and based transportation services are key in resort communities as transportation service providers work with local businesses and residents who understand the travel, housing, and work dynamics in the communities.

[18] Green Coast maintains that its Application is tailored to the unique features of resort communities and emphasizes that its proposal will help ameliorate the chronic transportation issues in the Alberni-Clayoquot and Squamish-Lillooet areas by expanding the supply of vehicles to meet the fluctuation in demand prevalent in those communities. Green Coast proposes to rely on dynamic pricing for its services. According to Green Coast, higher prices in peak demand will entice more drivers to provide services, while the fall in prices during off-peak periods will reduce incentives to drivers to provide transportation services. Green Coast further submits that its proposal will result in more flexible work opportunities which resort community workers often seek.

[19] Green Coast highlights its experienced management team, the majority of whom have been with Green Coast for over ten years and are experienced drivers. The management team has managed up to 64 staff members and has established systems of operation.

[20] The key tenets of Green Coast's operating plan include:

- a partnership with an established transportation technology company experienced with ride hailing with which Green Coast has created its customized Whistle App;
- web-based software for driver and fleet management:
 - Green Coast will use Zonar and Driver Log real-time to conduct pre-trip inspection, ongoing maintenance and repair, and document driver statistics to ensure compliance with *National Safety Code* and Commercial Vehicle Safety and Enforcement requirements;
- an extensive driver training program:
 - Green Coast recognizes there may be a limited number of commercial drivers in resort communities and will therefore offer potential drivers training to meet Class 4 standards;

- Green Coast has prior experience with Tofino Bus in developing and implementing in-house training for its commercial drivers;
- a driver retention program:
 - Green Coast will offer a benefit package for drivers that will include an extended health benefit plan, at-cost fuel, vehicle maintenance, and ongoing training opportunities; and
- vehicle maintenance contracts:
 - Green Coast has preliminary maintenance contracts with Long Beach Auto in Tofino;
 - Green Coast intends to establish a similar arrangement in Whistler;
 - Green Coast will also facilitate high volume contracts with local car washes and detailing facilities to reduce costs to drivers;
 - Green Coast intends in the long term to develop dedicated facilities for drivers in Whistler and Tofino that will include a maintenance building, cleaning stations, and covered parking for winter weather which will be available to drivers at preferred rates.

[21] In addition to providing information regarding resort communities in British Columbia, Green Coast relies on the legislative debates regarding the *Passenger Transportation Amendment Act, 2018* and the following publicly available reports to demonstrate public need for its service generally:

- Select Standing Committee on Crown Corporations (SSCCC): “Transportation Network Companies in British Columbia”, February 2018;
- SSCCC Report: “Transportation Network Services: Boundaries, Supply, Fares and Drivers’ Licences”, March 2019; and
- “Modernizing Taxi Regulation” by Hara Associates, June 2018.

[22] Green Coast states that it will be able to implement its plan quickly and provide immediate transportation solutions to residents and visitors in the Whistler and Tofino communities if its Application is approved.

4. Analysis and Findings

[23] Section 28(1) of the Act sets out the factors which must be considered on this Application. While the Board has not exhaustively recited all of the information filed by Green Coast and the Submitters, it has considered all of the information received in making its decision.

(a) Is there a public need for the service Green Coast proposes to provide under the special authorization (s. 28(1)(a) of the Act)?

[24] The first consideration is whether there is a public need for the service that Green Coast proposes to provide under the special authorization. An applicant is required to provide information to demonstrate public need by showing that there are people who would use the proposed service.

Applicant's position

[25] As noted above, Green Coast's business plan relies in part on the findings in the Select Standing Committee reports, the Hara Report on "Modernizing Taxi Regulation", and the legislative debates concerning Bill 55 (the *Passenger Transportation Amendment Act*, 2018) to support public need for its proposed TNS. Green Coast refers to the following passage in the June 2018 Hara Report:

For smaller municipalities, the prime interest is to have service available to residents. They discourage barriers to entry that could be onerous for service providers.

BC has many communities with seasonal demands: peaks of summer residents and tourists, winter skiers; and lows with little or no demand during their off-season. The existing taxi regime does not provide the flexibility needed to respond to seasonal demands as it was designed with full time taxi operations in mind.

The TNS model using personal cars is sought as a flexible way to serve peak seasonal demands.

[26] Green Coast places particular emphasis on the significant peaks and valleys that resort communities experience in transportation demands as a result of population fluctuations. For example, it points out that Whistler experiences a surge in visitation during weekends, long weekends, and holiday periods. Similarly, peak ridership in Tofino often occurs on single days, such as the beginning or end of a long weekend, or in extended peak flows during the summer season. Green Coast refers to InterVistas' March 2019 *Economic Impact of Tourism in Tofino* report which found that Tofino accommodates an average of 6,700 visitors per night in August in contrast to an average of 2,500 visitors per night in January.

[27] To further illustrate the public need for TNS in the resort communities, Green Coast refers to discussions it has had with major tourism service providers in Tofino and Whistler. For example, the owner of the Wickaninnish Inn in Tofino estimates a demand of 25 ride hailing requests per day; the owner of the Wolf in the Fog restaurant in Tofino estimates a demand of 30 ride hailing requests per day for its customers. Similarly, the General Manager of Nicklaus North Golf Course indicates that their staff call for more than

20 taxis per day for their customers and that, despite calling an hour in advance, taxi companies still cannot meet the demand in Whistler. Green Coast submits that this information demonstrates a significant public need for TNS in the communities it proposes to serve.

[28] Green Coast also suggests that the real demand for TNS is yet to be determined as the introduction of TNS can open up new markets for vehicles-for-hire. For example, a potential demand for its services may come from employees who work in, but live outside of, resort communities. Green Coast maintains that the Whistle App can connect riders, thereby offering service workers a more cost-efficient mode of transportation.

[29] Green Coast submits the unique transportation needs of communities such as Tofino and Whistler cannot be served by traditional vehicles-for-hire because companies offering that service are not capable of scaling up to meet a sudden influx in population in peak seasons and it is not financially feasible to maintain a full fleet of vehicles capable of meeting peak-demand year-round. In contrast, Green Coast submits that its proposed TNS is uniquely situated to meet the demands of resort communities because it will be able to scale up to meet an influx in public demand during peak season and scale down when there is a decline in public demand in low season.

Submitters' position

[30] With the exception of the submission from the Mayor of the District of Tofino (the "Mayor of Tofino"), the Submitters primarily focus on whether there is a public need for TNS generally rather than whether there is a need for the specific TNS proposed by Green Coast.

[31] Syd's Taxi *et al* argues that applicants should not be able to rely on the Select Standing Committee reports, the Hara Report or Hansard to demonstrate public need; rather, applicants should be required to provide their own evidence to demonstrate the need for their proposed services.

[32] The VTA submits that if the Board declines to impose fleet size limits on TNS operators, there will be significant adverse consequences, such as increased traffic congestion and greenhouse gas emissions, increased traffic fatalities, the exploitation of the public through surge pricing in periods of high demand, and the risk of destroying the viability of the existing taxi industry which, in turn, will harm passengers who depend on that industry to provide reliable wheelchair transportation. According to the VTA, there is no public need for services that would have all of these and other adverse consequences. Syd's Taxi *et al* supported many of these concerns.

[33] Several municipalities and the BCFED also provided generic submissions on public need and, in common with the VTA and Syd's Taxi *et al*, did not specifically address whether there was a public need for the TNS proposed by Green Coast which targets resort communities with unique challenges and needs.

[34] The Mayor of Tofino confirms that transportation in resort communities has been a longstanding issue, particularly during peak periods. In its 2019 Multi-Modal Transportation Plan, the District of Tofino identified ride hailing as one solution to Tofino's transportation issues. The Mayor indicates that the TNS proposed by Green Coast is a needed new service to help meet current and future transportation demands.

Board's Finding

[35] There is no question that there is a public need for more passenger transportation generally in British Columbia as evidenced by the findings in the 2018 Select Standing Committee report and the Hara Report. Each of these reports, which were issued after considerable public consultation regarding TNS and input from experts, concluded that there was a public need. In its February 2018 Report, the Select Standing Committee noted that several witnesses discussed the challenge and wait times British Columbians experience when trying to hail a taxi, particularly during peak demand times such as evenings, weekends, and holidays. The Select Standing Committee noted that improved access to transportation services was one of the key potential benefits of TNS. In his report, Dr. Hara observed that the success of TNS in other jurisdictions demonstrates that providing timely and reliable vehicle-for-hire evokes a large increase in sustained consumer demand. He observed that in the City of Calgary, combined taxi and TNS trips had increased by 26%, although taxis ceded some market share. He concluded that there is a "significant untapped demand for vehicle-for-hire service when supply becomes efficient and reliable at all hours". These reports were considered by the Board in its June 21, 2019 Bulletin in which it concluded that there is compelling evidence that taxi service cannot meet peak period public need for vehicles-for-hire.

[36] The Board does not accept the submission that Green Coast cannot rely on the Select Standing Committee reports and the Hara Report to establish public need. Those reports contain relevant information about the introduction of TNS in this province and form an appropriate evidentiary basis for establishing public need. A similar process was used for the 2018 taxi modernization process which enabled taxi companies to seek to increase the number of licenced vehicles by up to 15%. The Board accepted that taxi companies could rely on Board consultation documents and the Hara Report to demonstrate public need.

[37] The Board must focus on whether there is public need in the areas that Green Coast proposes to provide services in. In addition to reliance on the reports described in the preceding paragraph, Green Coast provided evidence to support public need in the resort communities of Tofino and Whistler where it intends to launch its operations. The Board is satisfied that, based on the totality of the evidence, resort communities like Tofino and Whistler have unique passenger transportation challenges and demonstrable public need. The evidence establishes that there are passengers in these local communities that would use the proposed service. The Board therefore finds that there is a public need for the purposes of s. 28(1)(a) of the Act.

(b) Is the applicant a fit and proper person to provide that service and is the applicant capable of providing that service (s. 28(1)(b))?

[38] The second consideration is whether Green Coast is a fit and proper person and has the capability to provide the proposed service for s. 28(1)(b) purposes. In considering whether an applicant is a “fit and proper” person, the Board considers factors such as the applicant’s past conduct and the potential risk of harm to the public and to the integrity of the passenger transportation industry if a licence is granted to the applicant. Where, as here, the applicant is a corporate entity, the Board will consider relevant information concerning the conduct of the directors and key management staff in assessing how the business is likely to be run.

[39] In considering capability, the Board considers whether the applicant has demonstrated knowledge and understanding of the relevant regulatory requirements and policies governing passenger transportation in this province, as well as the applicant’s ability to comply with those regulatory requirements and provide the proposed service in a proper and lawful manner.

Applicant’s position

[40] Green Coast relies on its extensive experience in the transportation industry to support that it is both a fit and proper person and it is capable of providing the service. Mr. Green founded Tofino Bus in 2002 and operated it until its assets were sold to The Wilson Group of companies. At the time of the sale, Tofino Bus provided more inter-city bus services to more communities in British Columbia than any other licensee. In addition to providing inter-city bus operations, Tofino Bus was the school bus operator for School District 70 (and had been since 2005), completed charter services, transit contract services, freight services, and bus maintenance services.

[41] Green Coast provided the Board with information relating to its corporate organizational structure which, as set out above, has a management team in place consisting of individuals who have considerable experience in the transportation industry.

[42] Mr. Green and his managerial staff have led a team of more than 60 employees and safely operated a fleet of more than 30 vehicles. They also developed a training program for the company’s drivers and a maintenance facility and maintenance program that received Preventative Maintenance Facility status from the Commercial Vehicle Safety and Enforcement Branch. Green Coast also has a history of incorporating technology into its transportation operations, relying on electronic pre-trip inspections and driver logs and adopting web-based reservations and sales.

[43] Green Coast provided the Board a business plan which included a three-year cash flow projection and a balance sheet for the period ending December 31, 2018.

Submitters' position

[44] The Mayor of Tofino supports the Application with a letter highlighting the District's collaboration with Mr. Green with respect to the provision of local transportation service. The Mayor recognized "the invaluable contributions Mr. Green has made to solving local transportation issues by nominating him for a national rural Canada Innovation award in 2006 for his success in making Tofino more accessible with the launch of the inter-city Tofino Bus service". No other submissions were received specifically addressing Green Coast's fitness and capability to provide the proposed service in the Alberni-Clayoquot and Squamish-Lillooet area.

Board's Finding

[45] The Board recognizes that Green Coast has extensive experience in the transportation industry dating back to 2002, particularly in the resort community of Tofino. Mr. Green's background, experience, and qualifications reflect that he is well-equipped to oversee management of the proposed operation. Mr. Green transformed his company from a one-vehicle operation into the largest provider of inter-city bus services in the province servicing more communities than any other licence holder as of 2019. Mr. Green's operation of Tofino Bus earned him awards relating to innovation and corporate environmental practices.

[46] Green Coast's management team includes Thomas Beauchamp (Operations Manager/Chief Operating Officer, Senior Human Resources Manager and Driver Trainer); Michael Tilitzky (Driver Trainer and Senior Human Resources team member); William Severinson (Lead Driver Trainer); Marc Bertrand (Senior Software Developer); and Baku Spielman (Marketing, Graphic Artists and Search Engine Optimization specialist). There is no evidence raising concerns about the conduct of these key employees.

[47] Green Coast holds a valid *National Safety Code* certificate which denotes a rating of Satisfactory – Unaudited, with no administrative penalties. Mr. Green signed a declaration on behalf of Green Coast under the *Liquor Control and Licensing Act* and the *Cannabis Control and Licensing Act* declaring that, among other things, the company will operate its vehicles in accordance with those Acts. The Board's supplementary terms and conditions with respect to the capability to meet the data requirements of both the Registrar and the Board was also confirmed by Green Coast. The Disclosure of Unlawful Activity & Bankruptcy form and Criminal Records check were completed to the satisfaction of the Board.

[48] Based on this evidence, the Board is satisfied that Green Coast is "fit and proper" for purposes of s. 28(1)(b).

[49] To assess capability, the Board primarily relies on the business plan and financial statements provided by an applicant. The business plan and financial statements of Green

Coast demonstrate that it has extensive experience in providing passenger transportation services within British Columbia's regulatory framework. Green Coast also demonstrates a strong understanding of the market for TNS, including both the passenger and driver markets. It has experience developing and implementing a driver training program, longstanding relationships with the local transportation industry, and the technological capabilities to connect passengers with drivers.

[50] Green Coast's business plan includes a three-year cash flow projection and the balance sheets for Tofino Bus, prepared by an accounting firm, for the period ending December 31, 2018. The Board is satisfied that Green Coast has provided reliable information regarding the assumptions used to estimate the cash flow projections and that these assumptions are reasonable. For example, Green Coast provided estimates of the costs that drivers will incur, the revenue that they can be expected to achieve, and an estimated net revenue per hour. The Board finds the expense categories identified by Green Coast to be reasonable.

[51] Based on the information provided, the Board accepts that Green Coast has demonstrated that it has the knowledge and understanding of regulatory requirements and that it has sufficient resources and overall infrastructure to provide the proposed service in a lawful and proper manner. The business plan and Green Coast's demonstrated record of providing passenger transportation services in a safe manner for many years confirms that it has the skills to provide care and control of its drivers and vehicles and to manage the service that it proposes to provide.

[52] The Board therefore finds that Green Coast is a fit and proper person to provide the proposed service and has the capacity to provide TNS for the purposes of s. 28(1)(b) of the Act.

(c) Would the application, if granted, promote sound economic conditions in the passenger transportation business in British Columbia (s. 28(1)(c))?

[53] The final consideration is whether granting the Application would promote sound economic conditions in the passenger transportation business in the province for the purposes of s. 28(1)(c). The Board strives to balance public need for available, accessible and reliable commercial passenger transportation service with overall industry viability and competitiveness. The Board considers the "sound economic conditions" issue from a wide-ranging perspective, which includes consideration of harm to other industry participants. In general, the economic conditions of the "transportation business in British Columbia" have greater weight than the economic and financial interests of individual applicants or operators.

[54] As indicated at the outset, the "sound economic conditions" arguments by most of the Submitters were generic in nature and not directly tailored to Green Coast's

Application. Nevertheless, the Board will summarize the key arguments made by those Submitters and Green Coast's response.

Level Playing Field

[55] Most of the Submitters are taxi companies operating in various regions of the province. An overriding theme to the submissions of those companies is that there should be a level playing field between taxis and TNS to promote sound economic conditions based on the premise that taxis and TNS provide the same service. The VTA argues that the only difference between taxis and TNS providers is that TNS providers deliver their services through an app. It therefore follows, according to the VTA, that the same licensing conditions should be applied to TNS as are applied to taxis. The VTA asserts that TNS operators should be prohibited from subsidizing rides and should be required to treat their drivers fairly. The Mayors of Burnaby, Delta and Richmond, Syd's Taxi *et al* and others also express concerns about the lack of a level playing field between taxis and TNS, with particular reference to operating areas, fleet size and rates.

Fleet Size

[56] Fleet size is another key issue related to the proposed "level playing field" between taxis and TNS operators. Many of the Submitters urge the Board to place a cap on the number of TNS vehicles in a particular geographical region. Several urged the Board to be guided by the September 3, 2019 letter from the Honourable Minister of Transportation and Infrastructure (the "Minister of Transportation") to the Board Chair which asked the Board to prevent "serious dislocation before a supply or cap decision occurs".

[57] These Submitters caution that the unrestricted entry of TNS into British Columbia will result in many negative impacts. The VTA suggests that if the Board does not impose a cap on the fleet size of TNS, it will lead to the destruction of the taxi industry. Syd's Taxi *et al* and other Submitters share the concern that an unlimited TNS fleet size will destroy the competitive balance in the passenger transportation industry.

[58] The VTA describes its concerns in the following passage of its November 19, 2019 submission:

... the public does not need an unlimited supply of passenger transportation vehicles, all competing for their patronage. This will lead to destructive competition between the participants in the passenger transportation industry as well as increased congestion, with its attendant increase in greenhouse gas emissions.

[59] In terms of the proposed cap on fleet size, the VTA recommends a fleet size of 2,300 ride hailing vehicles for the Lower Mainland, which would effectively double the number of vehicles-for-hire on the road, expand consumer choice, and limit the congestion associated with TNS. The VTA stresses the importance of limiting fleet size before a licence is issued and using data to increase fleet size later if warranted. The VTA and Syd's Taxi *et al* encourage the Board to regulate fleet size proactively to prevent the negative impacts it warns of, such as congestion, pollution, and destructive competition.

Rates and other differences

[60] The rates to be charged by TNS operators are another significant area of concern for the Submitters. Taxi rates are set by the Board based on a flag rate plus time and distance charges; those rates apply consistently across operators within an operating area. In its Operational Policy: Introduction of Transportation Network Services, 2019, the Board identified a minimum rate for a TNS operating area as the taxi flag rate in the area with no requirement for time and distance charges.

[61] In general terms, the Submitters oppose the use of dynamic pricing by TNS operators. Dynamic pricing allows rates to respond to changing demand circumstances and results in surge pricing in times of peak demand, when taxis must maintain their set metered rates. Several Submitters raise the concern that TNS operators will "cherry pick" the most lucrative trips and be non-responsive to others who require rides. The Submitters maintain that TNS fares should be equal or similar to the rates charged by taxis to enable both industries to compete on the basis of service quality rather than price.

[62] The BCTA and several taxi companies point out that taxis are required by law to provide service 24 hours a day seven days a week in a non-discriminatory manner. They express the concern that TNS operators will discourage taxi drivers from working full-time which will effectively reduce or compromise services to seniors, those requiring accessible services, and WorkSafeBC and ICBC claimants.

[63] Syd's Taxi *et al* notes that TNS Region 1 enables TNS applicants to apply for an operating area that extends from Whistler to Hope while taxis are restricted to their historical operating areas which, in its view, is an obstacle to improving customer taxi service. Syd's Taxi *et al* references Dr. Hara's opinion that taxis should be allowed to move more freely across municipal boundaries.

[64] The Submitters raise several other alleged inequities between taxis and TNS operators, including differences in: (a) insurance coverage as TNS insurance will be considerably cheaper and more flexible than taxi insurance; (b) employer obligations as

taxi licensees must pay their drivers minimum wages and provide statutory benefits while TNS drivers are treated as contractors who do not receive the same base level remuneration or benefits; and (c) safety requirements as taxi cameras are mandated in some areas while there is no such requirement for TNS vehicles. Additionally, the Mayors of Delta and Richmond note discrepancies in regulations regarding low emission vehicle requirements, vehicle age requirements, types of booking and fare payment, trade dress/identifiers inside and outside vehicles, and provision of accessible services.

Predatory Pricing

[65] Submitters are concerned about the threat of predatory pricing. Relying largely on the financial information of another TNS applicant, the Submitters say that multi-national ride hailing companies lose money because they do not charge passengers the cost of the service. Failing to charge the true cost of service for the purposes of eliminating competitors constitutes predatory pricing which is designed to drive competitors out of business. Once market control has been achieved, the dominant provider increases its prices. The Submitters argue that large TNS companies will engage in this practice in British Columbia and destroy the taxi industry.

[66] According to the Submitters, allowing flexible rates for taxi companies, or enabling taxis to operate as a TNS provider, will not be adequate because the purpose of predatory pricing is to force competitors out of business. The Submitters suggest that multi-national ride-hailing companies can, and will, sustain large losses to remove their competition and that the economic soundness of the industry can only be protected if taxis and TNS compete on the basis of service quality and efficiency. The Submitters maintain that predatory pricing and surge pricing are not in the public interest and will not promote sound economic conditions when TNS is given a competitive price advantage.

[67] None of the Submitters allege that Green Coast would engage in predatory pricing.

Economic Impact on Taxis

[68] As is evident from the submissions above on fleet size, rates and predatory pricing, many of the Submitters are concerned that the TNS business model will cause significant financial losses to taxi companies and drivers. The Submitters warn that there will be significant adverse consequences for taxi drivers who will lose income and the ability to support their families. They allege that ride hailing companies flood the market with drivers, engage in predatory pricing, and pay inadequate wages to their drivers which, in turn, results in destructive competition to the taxi industry. The VTA and others provided

evidence of the decline in taxi market share in other jurisdictions, including San Francisco and New York.

[69] As well, Submitters warn there will be a significant adverse impact to licence holders who invested substantial amounts of their life savings in a taxi licence. These adverse consequences stem from the impact on taxi licence-share values with the introduction of TNS in the province. The taxi companies submit that the individuals who invested in taxi licence-shares did so based on the regulatory regime for passenger directed vehicles in place at the time. Dr. Hara opines that TNS operations in the British Columbia market will reduce licence-share values to negligible values. According to Syd's Taxi *et al*, the VTA estimates that its members have third party loans using taxi licences as collateral to a value of about \$500 million.

Increased Congestion and Greenhouse Gas Emissions

[70] The introduction of ride hailing in British Columbia has raised concerns from many Submitters regarding the potential increase in traffic congestion and associated greenhouse gas emissions. These concerns were also raised before the Select Standing Committee. Syd's Taxis *et al* references a submission by Professor Garland Chow to the Select Standing Committee that TNS operators should be required to address these issues in order to operate in the province. The VTA and other submitters reference the letter from the Minister of Transportation to the Board Chair dated September 3, 2019. The Mayors of Delta, Richmond and Burnaby emphasize the importance of addressing the negative impact that ride hailing will have on congestion and greenhouse gas emissions in their respective cities.

Treatment of TNS Drivers

[71] Some of the submitters, including the VTA, the BCFED and others, do not support ride hailing generally on the basis that TNS drivers are treated as contractors, not employees. According to the BCFED, they do not receive benefits, earn less than minimum wage, and lose the ability to unionize. It is alleged that these conditions are exploitative and cannot lead to sound economic conditions. Again, it is important to note that these concerns are not directed at Green Coast specifically but are rather directed at the larger TNS operators.

[72] The BCFED and other Submitters point out that taxi drivers are protected under the *Employment Standards Act*, the *Workers Compensation Act* and *Occupational Health and Safety Regulations*. In contrast, TNS drivers are typically treated as independent contractors who are not afforded the protection of these statutory schemes. The BCFED

points out that the minimum TNS rates set by the Board will impact the wages, and benefits of drivers. Some Submitters suggest that the Board should assess TNSAs on the basis of how the company will treat its workers and the quality of jobs that it will create.

[73] The VTA suggests that the Board should establish appropriate terms and conditions for TNS drivers as in New York which has established a minimum hourly rate of \$27.86 USD for TNS drivers or Los Angeles which is proposing a minimum hourly rate of \$30 USD.

Impact on Transit Riders

[74] Some of the Submitters raise concerns about the impact of TNS on public transit. For example, the City of Burnaby reports that ride hailing services have had a negative effect on public transit in other jurisdictions and believes that TNS mobile apps and service models that propose to integrate with public transit should be prioritized over those that do not. Again, these submissions are not tailored to respond to the specific details of Green Coast's Application.

Accessibility

[75] Some of the Submitters raise the concern that TNS operators do not provide service to customers who require accessible vehicles. Some suggest that TNS companies are seeking to avoid this cost with the consequence that accessible taxi service will decrease because taxi companies will not be able to afford to keep the higher cost accessible vehicles on the road.

[76] This was also a concern expressed by some of the Mayors. The City of Burnaby believes that TNS operators should be required to maintain the same proportion of vehicles equipped for transporting persons with disabilities as taxis. The City of Richmond also suggests that TNS operators should have the same accessibility requirements as taxis.

Timing of Restrictions

[77] There is also a concern regarding the timing of the imposition of restrictions. Some Submitters maintain that, from a regulatory perspective, it will be difficult for the Board to address the adverse consequences that will arise from unregulated fleet size such as congestion and low drivers' incomes after the fact. The VTA urges the use of the precautionary principle to ensure that the public interest is not harmed; it asserts that there is a legal requirement to allow taxis to compete on an equal footing with TNS operators.

Green Coast's Response

[78] Green Coast makes the point that many of the Submitters effectively seek to reopen the debate about whether TNS should be permitted in British Columbia despite the amendments to the Act and widespread public support for them. From Green Coast's perspective, arguments of this nature are designed to further delay the introduction of ride hailing services to the province.

[79] As well, Green Coast maintains that certain submissions should be disregarded because they are irrelevant: (a) Green Coast's intended area of operation does not fall within Delta, Richmond or Burnaby; (b) its intended operating area does not overlap with the operating areas of VTA and Syd's Taxi *et al*; and (c) the submissions regarding predatory pricing, poor working conditions and other concerns focus on the business practices of large multi-national ride hailing providers.

[80] Green Coast distinguishes its business model from that of large multi-national ride hailing companies which raise different concerns. Green Coast points out that it is a small, locally owned ride hailing company with all of the advantages of a local business and none of the difficulties of large multi-national corporations. Green Coast's business model is not based on "buying market shares at a loss". Its financial statements indicate that the company should break even after its first year of operation and that its drivers should start making money almost immediately.

[81] Green Coast again emphasizes the unique transportation needs in small resort communities which it seeks to serve, with reference to the 2018 Select Standing Committee Report, in which it was observed:

Committee members acknowledged the widespread demand for TNS services in small, rural, and remote communities and appreciated the value TNSs could provide to residents in these communities.

[82] Green Coast argues that its TNS proposal will provide significant benefits to the resort communities it intends to serve. Its proposal will provide flexible job opportunities to resort communities where the economies are tourist driven. Green Coast submits that its proposal also promotes the development of an accessible TNS by offering significantly increased driver premiums for accessible vehicles. Green Coast expects that its TNS proposal will lessen traffic congestion, particularly the serious parking congestion experienced in small resort towns and at nearby attractions.

[83] In response to the general concerns regarding poor employment conditions for TNS drivers, Green Coast also distinguishes itself from the business model of large TNS

corporations in the treatment of its drivers. Green Coast maintains that it is committed to driver care as demonstrated by its driver training program for interested drivers who do not have a Class 4 licence, extended health benefits package for drivers, low-cost vehicle maintenance and upgrades, and ongoing support and training. It also highlights that the intended percentage fare split with drivers and high per-single trip fare will ensure drivers earn at or above a living wage. Green Coast states that its Tofino Bus operations demonstrated its commitment to its employees and the importance of employee retention.

Board's findings

[84] Section 28(1)(c) requires the Board to consider whether approving the special authorization would promote sound economic conditions in the passenger transportation business in British Columbia. Sound economic conditions necessarily encompass a broad range of often competing issues, including, undue harm on other participants in the transportation industry. In addition to concerns about the impact on the taxi industry, the Submitters have raised concerns about increased traffic congestion, greenhouse gas emissions, treatment of drivers, impact on transit ridership, and accessibility particularly for passengers who require wheelchairs.

[85] These factors must be considered individually and collectively in assessing the proposed service. Fundamentally, the Board must consider whether the proposed service will advance or detract from the promotion of sound economic conditions in the passenger transportation industry having regard to the totality of the factors discussed above.

[86] The Board has concluded, for the reasons below, that granting the Application will promote sound economic conditions in the passenger transportation business and be of considerable benefit to the resort communities which Green Coast proposes to provide services to.

Level playing field

[87] Many of the submissions on fleet size and rates are premised on the view that TNS operators and taxi companies provide the same service and therefore must be regulated in the same manner. The Board does not agree. The TNS business model is markedly different from the business model used by taxis, resulting in different responses to market conditions. The TNS model relies on a large number of drivers with vehicles to supply the service, a large number of consumers to purchase the service, the interaction of supply and demand to set fares, and information exchanged between the parties through the use of an app. The TNS business model responds to service availability issues that have arisen in the taxi industry by increasing the supply of vehicles-for-hire in peak periods and reducing

supply in off-peak periods. Street hails and taxi stands remain the exclusive domain of the taxi industry. As a result of these differences, the Select Standing Committee did not consider the direct application of regulations from the taxi industry to TNS to be a sound policy decision. The Board agrees with that conclusion. TNS will work particularly well in the proposed areas that Green Coast proposes to service in light of the significant population variations.

Fleet size

[88] Fleet size is defined in the Regulation as “the maximum number of passenger directed vehicles authorized to be actively operating, at any given time, under a licence that includes a passenger directed vehicle authorization or transportation network services authorization”. The Board is authorized to both set and amend fleet sizes for a group of licensees.

[89] Fleet size is a contentious issue notwithstanding the limited scope of Green Coast’s Application. The Submitters assert that, without a cap on fleet size for TNS operators generally, the taxi industry will not be able to effectively compete.

[90] Fleet size has been a significant issue for the taxi industry historically. In times of economic recession, drivers would flood the market, resulting in lower returns for all drivers. As a result, caps on fleet size were introduced and have been a long-standing feature of the regulation of the taxi industry.

[91] In response to concerns about fleet size, Green Coast states that the TNS model and its inherent flexibility will help address the unique transportation needs of resort communities which experience significant population fluctuations between on and off seasons. That is, fleet size concerns that may arise in large, urban areas do not necessarily translate to the smaller, unique regions which it proposes to serve.

[92] The Board recognizes the potential risks of an unlimited fleet size but it also accepts that a flexible supply of TNS drivers and vehicles forms an integral part of Green Coast’s TNS business model. This is due, in part, to the fact that most drivers only operate part-time, and in accordance with their own personal schedules and the incentives of the market. Unlike taxis, which can be used to provide rides 24 hours a day, TNS vehicles are private vehicles that may be used for purposes other than offering rides for much of the day.

[93] The Select Standing Committee concluded that the vehicle cap currently used to regulate the taxi industry would not be an appropriate mechanism to regulate TNS supply.

The Committee members emphasized that a flexible supply of drivers is required to meet the fluctuating demand. In the place of a vehicle cap, the Committee members suggested that a modern and dynamic approach would be more appropriate to encourage equitable distribution of service and supply. The Committee discussed the implementation of dynamic pricing and geofencing to encourage positive behaviour.

[94] The Board agrees with the Select Standing Committee's view that setting caps on fleet size may not be the most appropriate mechanism to regulate TNS, both due to the specific nature of its business model and the lack of an empirically substantiated basis for setting fleet size at this time. Additionally, and in contrast to other jurisdictions, British Columbia has required that all TNS drivers have a Class 4 licence. The Board expects that this additional requirement will likely result in a slower ramp up of TNS operations than occurred in other jurisdictions.

[95] The VTA suggests that a fleet size of 2,300 TNS vehicles would be appropriate for Region 1 (Lower Mainland) based on the justification that this is the size of the current taxi fleet. This proposed cap is not relevant to Green Coast's Application which proposes to provide TNS in Tofino and Whistler. Imposing a cap on Green Coast's fleet size on the basis of the taxi fleet size in the Lower Mainland would be arbitrary and lack an empirical basis.

[96] The Minister of Transportation's 2019 letter to the Board Chair indicated that the fleet size of TNS operators should be reviewed in a timely way to ensure the viability of the taxi industry and to ensure the taxi industry does not experience serious economic dislocation before a fleet size or supply decision is set. The Board is solely responsible for the approval of special authorizations under the Act. While the Minister's view is a factor to be considered, the Board must make licensing decisions based on the evidence and submissions in each application.

[97] That said, the Board agrees that it needs to closely monitor TNS operations in British Columbia and specifically the issue of whether there should be caps on TNS companies' fleet sizes. The Board will be imposing rigorous data requirements on TNS operators and will use the data of those operators and taxi companies to make future decisions on whether caps should be imposed. The Act requires TNS and taxi companies to make this data available to the Board and this requirement will be enforced. A data warehouse at the Ministry of Transportation and Infrastructure is operational and ready to accept data and provide it back to the Board in a format suitable for analysis. While other regulators may have encountered challenges in imposing restrictions on TNS operators after they commenced operation, the Board has the statutory power to impose a cap on

fleet size at a later date. Under the Act, regulatory sanctions for any non-compliance can be imposed.

Rates and other differences

[98] Many Submitters urged the Board to require TNS operators, including Green Coast, to charge the same or similar rates as taxis. This proposed requirement for equivalent rates is intended to promote competition based on service quality, rather than price. Absent such a requirement, the Submitters expect that multi-national ride hailing companies will use their deep pockets and ability to sustain large financial losses to drive competitors out of business. Green Coast refutes these claims, emphasizing it is a locally owned and operated company that proposes to use flexible, dynamic pricing to match the demand for its services to the supply of vehicles which may result in lower fares during off-peak times and “surge pricing” during periods of high demand. This dynamic pricing is necessary and valuable in the communities Green Coast intends to serve as it allows for transportation to be available at times of both high and low demand.

[99] Imposing equivalent rates was the subject of consideration by the Select Standing Committee. Before the Committee, various presenters expressed conflicting views on the necessity for minimum and maximum rates for TNS operators. Select Standing Committee members recognized the prominent role of dynamic pricing in the TNS business model generally and concluded that dynamic pricing “should be encouraged” although they did not agree on recommending limitations on surge pricing. The Select Standing Committee ultimately recommended that a minimum per-trip price that is not less than the cost of public transit be imposed and that the Board monitor data to determine whether there is a need for implementation of a different base rate or cap on pricing.

[100] The Board considered the issue of rates both during its consultation with the taxi industry and in its development of TNS policies. In September 2018, the Board published an Industry Advisory which permits taxi companies to lower metered taxi fares in off-peak hours for app-hailed trips. In 2019, the Board also published an Operational Policy that presumptively sets TNS rates at the taxi flag rate for each region, recognizing that rates must be considered on a case-by-case basis on each application.

[101] Like the Select Standing Committee, the Board accepts that dynamic pricing is central to the TNS business model. Dynamic pricing is the mechanism by which the supply of vehicles is adjusted to respond to passenger demand. The intended effect of dynamic pricing is to reduce wait times at peak periods by incentivising drivers and to lower costs at off peak periods to encourage trips. The Board does not accept the submission that

dynamic pricing is discriminatory. The price of countless goods and services are dictated by market conditions. The use of up-front pricing will mean that passengers will be aware of TNS rates and will have the choice of accepting or declining the service, including at times of surge prices. Those who are unwilling or incapable of paying the surge prices will still have the option of using taxis or public transit.

[102] The Board has concluded that allowing Green Coast to charge flexible rates and use dynamic pricing will encourage healthy competition in the passenger transportation industry and promote sound economic conditions in the province. As with fleet size, the Board recognizes that it does not have data on the impact of TNS rates in British Columbia. The Board will require Green Coast to charge the taxi flag rate set for Region 1 and Region 3 as published on the Board's website and prohibit the use of coupons or discounts to lower rates below those set by the Board. In addition, the Board will require Green Coast to provide data that will be used to monitor the impact of TNS rates. The Board will make future decisions on TNS rates based on an analysis of that data.

[103] The remaining concerns include the costs of insurance, additional safety measures, and the boundaries for TNS operations. The Board concluded that these concerns did not preclude the approval of Green Coast's application. The Board also notes that setting insurance rates for taxis and TNS operators is not within its regulatory authority.

[104] As to the concerns about taxi cameras and operating times, the Board notes that taxi cameras are a safety feature requested by taxi companies. Taxi companies may request changes to this requirement or to any other security feature to replace taxi cameras with other features such as those used by TNS. The fact that taxis operate 24 hours a day seven days a week is not a Board-imposed requirement.

Predatory Pricing

[105] As the Board observed above, none of the Submitters allege or offer evidence that Green Coast will engage in predatory pricing. The evidence and submissions on this point are based on the business model employed by large multi-national corporations.

[106] A review of Green Coast's financial information does not support a finding that Green Coast intends to engage in predatory pricing. To the contrary, Green Coast's financial statements indicate it intends to break even after its first year of operation.

Economic impact on taxis

[107] Under s. 28(1)(c) of the Act, the Board considers if undue harm will occur to other market participants due to the applicant's special authorization. In this case, and in other

TNS cases, taxi companies have vigorously argued that they will lose market share to TNS operations and experience declining levels of ridership, making it more difficult to earn a living and support their families. For example, Syd's Taxi *et al* relies on the submission which Ben Proctor made to the Select Standing Committee in which he noted that taxi fares may fall as much as 15 to 25% as a result of TNS operations.

[108] Green Coast's response to these concerns is that the approval of its Application will address the public need for more transportation options during peak periods in resort communities, which the small local taxi companies cannot meet because of their inability to scale up to meet population fluctuations.

[109] The evidence before the Board establishes that there is a public need in the areas which Green Coast intends to serve and that taxi companies have been thus far unable to address that need. The Board was not provided with any evidence that taxis operating within those areas will be adversely impacted economically. When considering whether this Application will promote sound economic conditions, it must be recognized that we live in a market economy and competition is the norm in the marketplace. The Board has made changes to assist taxis in anticipation of the introduction of TNS. In 2018, the Board provided the taxi industry with a one-time opportunity to apply for up to a 15% increase in the number of taxi vehicles (plates) and afforded the industry the flexibility to lower metered rates in off-peak hours for app-hailed trips. Even if approval of Green Coast's Application causes some loss of market share for taxis in the areas in which it plans to operate, the Board finds that the increased competition for vehicle-for-hire will benefit the passenger transportation industry overall.

[110] Another aspect of economic impact which has been raised is the predicted decrease in taxi licence-share values. The evidence before the Board suggests that licence-share values will be impacted by the introduction of TNS into British Columbia. Dr. Hara's report notes that the risk to taxi companies, licence-share holders, and taxi driver owner-operators is high if the value of taxi licence-shares declined. However, Dr. Hara also notes that the risk to taxi drivers (shift drivers) who make up the majority of the industry is minimal.

[111] The Board has never sanctioned the market for taxi licence shares. That market was created by taxi licensees to attract private investment and is not regulated by the Board under its Act. While it is unfortunate that licence-share values are decreasing, the possibility of having TNS services introduced into the province has been the subject of public discourse for the last seven years which ultimately resulted in legislative amendments to authorize TNS. The Board concludes that the impact on licence-share values is not a basis upon which to reject Green Coast's Application.

Increased congestion and greenhouse gas emissions

[112] With respect to concerns raised about the potential for increased traffic congestion and greenhouse gas emissions, Green Coast expects that its TNS proposal will lessen

congestion in the regions in which it intends to operate, particularly the serious parking congestion experienced in small resort towns and nearby attractions. No evidence of traffic congestion in the primary areas within which Green Coast will operate was provided by any of the Submitters.

Treatment of TNS drivers

[113] The VTA, BCFED, and others submit that, as a general proposition, TNS drivers earn less than minimum wage, receive no benefits and lack the ability to unionize. However, there is no evidence that Green Coast drivers will be exploited or poorly treated. Green Coast's Application materials reveal an intent to offer a driver training program for interested drivers who do not have a Class 4 licence, an extended health benefits package, low-cost vehicle maintenance and upgrades, and ongoing support and training for drivers. It also maintains that its percentage fare split with drivers and high per-single trip fare will ensure drivers earn at or above a living wage. As well, Green Coast has demonstrated a commitment to its employees and to employee retention through its experience running the Tofino Bus service.

[114] The Board will require Green Coast to provide quarterly detailed data on its drivers' earnings in a prescribed format and may publish that information at its discretion. If the earnings of drivers are unacceptably low, the Board will consider the imposition of a cap of fleet size and a change to the rates.

Impact on Transit Ridership

[115] There is insufficient evidence to support concerns that Green Coast's operations will have a negative impact on public transit ridership in the areas where Green Coast intends to operate. The Mayor of the District of Tofino is supportive of Green Coast's TNS application as a solution to the District's transportation issues. The Mayor says that the District is committed to working with BC Transit to explore whether ride hailing could be used to expand basic transit provision to zones outside the planned regional-service area.

Accessibility

[116] The final concern relates to the maintenance of accessible transportation. Many Submitters are concerned that TNS operators will not provide wheelchair accessible service to the detriment of those passengers who require them. These concerns are misplaced with respect to Green Coast.

[117] Green Coast's Application promotes the development of accessible TNS services by offering significantly increased driver premiums for accessible vehicles.

[118] The Board considers that the maintenance of accessible transportation is an important issue. For this reason, Green Coast will be required to pay a \$0.30 per trip fee to the Province under the Act. This source of revenue will be used to promote accessible services. The Board is satisfied that Green Coast's incentives, combined with the imposition

of a mandatory trip fee, will address concerns about the maintenance of wheelchair accessible transportation for passengers.

Summary on s. 28(1)(c)

[119] The Board considered each of the factors identified by the Submitters in determining whether the proposed service would promote sound economic conditions in the passenger transportation business in British Columbia. Considering those factors individually and globally in light of all of the evidence, the Board has concluded that approving Green Coast's proposed service for Regions 1 and 3 will promote sound economic conditions in the transportation business in accordance with s. 28(1)(c) of the Act.

5. Rates

[120] Minimum rates for Transportation Network Services will be based on taxi flag rates in an originating area, as determined by the Board. The use of coupons or discounts by TNSs to lower rates below the minimum rate is prohibited.

6. Fleet Size

[121] There are no initial limits on TNS fleet size at this time. The Board will monitor TNS performance and other data and will review fleet sizes when data is available.

7. Conclusion

[122] For the reasons set out above, the Board approves Green Coast's TNS Application, with the terms and conditions established in Appendix 1 (operating areas), Appendix 2 (general terms and conditions), Appendix 3 (supplementary terms and conditions respecting TNSA apps), Appendix 4 (data requirements), and Appendix 5 (minimum rates). All five appendices will form part of the licence.

[123] The Board further directs that, as a term and condition of Green Coast's licence, Green Coast must provide the Board with the data required by Appendices 2, 3 and 4 every three months, starting on the license issuance date.

Appendix 1

Operating Areas

Originating Area	Transportation of passengers may originate from the following Originating Areas: Region 1 – Lower Mainland, Whistler Region 3 – Vancouver Island, excluding CRD
Destination Area	Transportation of passengers may terminate at any point in British Columbia.

Appendix 2

Special Authorization & Other Terms & Conditions of Licence

The applicant will be subject to the terms and conditions set out in “A. Legislative Requirements” and “B. Passenger Transportation Vehicles” below and may be subject to terms and conditions set out in and “C. Other Requirements” below.

Special Authorization TRANSPORTATION NETWORK SERVICES AUTHORIZATION (TNSA) Terms & Conditions	
Definitions	“Board” means the Passenger Transportation Board “Registrar” means the Registrar, Passenger Transportation
A. Legislative Requirements	
Vehicle Identifiers	Each motor vehicle operated under this authorization must display, at the times and in the form and manner required by the Registrar, a vehicle identifier that is: (a) issued to the licensee by the Registrar; or (b) authorized by the Registrar to be issued by the licensee.
Data Requirements	The licensee must provide to the Registrar any information, including personal information, and data that the Registrar or Board may require, and as may be set in any applicable supplemental terms and conditions and orders of the Registrar or Board, within time periods that the Registrar or Board may require, which may include, without limitation, information and data set out in section 28(5)(a) to (c) of the <i>Passenger Transportation Act</i> .
Hailing	Motor vehicles may be hailed under this authorization only through the use of the transportation network services approved under this authorization.
B. Passenger Transportation Vehicles	
Accessible Passenger Directed Vehicles	An Accessible Passenger Directed Vehicle must be operated in accordance with the <i>Motor Vehicle Act Regulations</i> including Division 10 (motor carriers) and Division 44 (mobility aid accessible taxi standards), as amended from time to time, and in accordance with any other applicable equipment regulations and standards.

<p>Apps</p>	<p>Fares and payments must be calculated and paid for through the use of an online platform that is in compliance with applicable supplemental terms and conditions, policies, standards and orders of the Board.</p> <p>Apps must also comply with supplemental terms and conditions policies, standards or orders of the Board.</p>
<p>C. Other Requirements</p>	
<p>Geo-Fencing</p>	<p>TNSs operating in the City of Vancouver (in Region 1 above) must geo-fence off the areas listed below in (a) to (c) on cruise ship days to prevent drivers from picking up passengers:</p> <p>(a) Canada Place Way between Howe Street and Burrard Street;</p> <p>(b) Howe Street between Canada Place Way and Cordova Street; and</p> <p>(c) Burrard Street between Canada Place Way and Cordova Street.</p> <p>The Board will post a link to the city’s cruise ship schedule, when available, in March or April of any year.</p>
<p>Fleet Size</p>	<p>It is anticipated that there will be no initial limits on TNS fleet size at this time. The Board will monitor TNS performance data and other relevant data and may review fleet sizes when data is available.</p>
<p>Driver Earnings</p>	<p>Individual driver earnings and hours worked must be tracked, and this data must be provided within the time frames set and in the manner required by the Registrar or the Board.</p>
<p>Transfer of a licence:</p>	<p>This special authorization may not be assigned or transferred except with the approval of the Board pursuant to section 30 of the <i>Passenger Transportation Act</i>.</p>
<p>Liquor Control and Licensing Act Cannabis Control and Licensing Act</p>	<p>The licensee must at all times ensure passenger directed vehicles under their licence are operated in compliance with the <i>Liquor Control and Licensing Act</i> and the <i>Cannabis Control and Licensing Act</i>.</p>

Appendix 3

Supplementary Terms & Conditions Respecting TNSA Apps

[Supplementary Terms & Conditions Respecting TNSA Apps](#), effective September 16, 2019, as amended from time to time, apply.

A. Purpose

To establish supplemental terms and conditions of licence about apps provided or used by a licensee with a transportation network service authorization (TNSA) to provide transportation network services (TNS).

B. Legislation

The *Passenger Transportation Act* defines transportation network services (TNSs) as services “respecting the connection of drivers of passenger directed vehicles with passengers who hail and pay for the services through the use of an online platform.”

Section 28(3) states:

The board may establish terms and conditions that apply to a special authorization included in a licence, if issued, including, without limitation, terms and conditions respecting any of the following:

(a) equipment or technology that must be installed, used or carried on or in motor vehicles operated under the authorization and the inspection, testing, adjustment, display and use of that equipment or technology;

....

(d) if the licence is to include a transportation network services authorization,
(i) information that must be displayed or carried on or in the motor vehicles or made available to passengers through the use of the licensee's online platform, or both.

C. Scope

1. These terms and conditions encompass:

- (a) software applications (apps) that a licensee, driver or passenger uses to provide or access TNS; and
- (b) information transmitted, processed, stored or displayed using an app described in (a) above.

D. Definitions

2. For the purposes of these terms and conditions:

“**act**” means the *Passenger Transportation Act*;

“**app**” means application software that provides a driver or passenger with access to the TNSA licensee’s online platform;

“**board**” means Passenger Transportation Board;

“**estimated fare**” means a specific fare or range of fares calculated before a ride starts, presented to the passenger as a quote or estimate and which may be replaced by a fare calculated at the end of the ride based on actual travel time and actual travel distance;

“**fare**” means the total transportation charges and taxes for a ride including Any variable-price adjustment and excluding any gratuities;

“**geo-fencing**” means a location-aware application that has been programmed with geographical boundaries or areas to limit the pick-up or drop-off of passengers to locations authorized in a licensee’s terms and conditions of licence;

“**licence**” means a licence issued under the Act that has a TNSA;

“**licensee**” means the holder of a valid licence to which these terms and conditions apply pursuant to section 1 above;

“**registrar**” means the Registrar of Passenger Transportation appointed under the Act;

“**up-front fare**” means a firm fare that is calculated before a ride starts and paid when the ride ends.

E. Transportation Network Services

TNS App Requirements

3. Licensees with a transportation network services authorization (TNSA) must, always:

- (a) provide passengers and drivers with an app that functions in accordance with requirements in these supplemental terms and conditions; and
- (b) maintain care and control of the apps which includes app functions, operation and performance.

Basic App Capabilities & Standards

4. Apps must function in a way that allows passengers to hail and pay for a single ride with the same app.

5. Apps must function accurately and reliably.

6. Apps provided by a TNSA licensee must be capable of:

- (a) connecting drivers and passengers through its online platform;
- (b) calculating fares that account for:
 - (i) minimum rates;
 - (ii) distance;
 - (iii) time;
 - (iv) other fees and taxes that may be applicable; and
 - (v) dynamic pricing variables that may be applicable;
- (c) processing the passenger's electronic payment and transmitting an electronic receipt;
- (d) complying, in conjunction with the online platform, with the Registrar and Board's "data requirements"; and
- (e) other functions as necessary to comply with these terms and conditions.

7. Apps:

- (a) must display and transmit information in English; and
- (b) may display and transmit information in other languages.

8. The app must comply with World Wide Web Consortium (W3C) standards for mobile accessibility.

Shielding of Personal Information

9. The app:

- (a) may collect information that identifies a passenger or driver or their contact information (such as first and last name, phone number and email address) and may only use the information as set out in the *Personal Information Protection Act* of B.C.;
- (b) must, shield the following information so information for the passenger is not given to the driver and information for the driver is not given to the passenger:
 - (i) Last name of the driver and passenger;
 - (ii) Phone number of the driver and passenger; and
 - (iii) Email address of the driver and passenger.

Accessibility

10. The app may only request, collect or record personal information about a health condition, disability, or accommodation request of a customer or driver when:

- (a) the provision of that information is voluntary and at the discretion of the app user;
- (b) the personal information that an app-user provides is protected by a password or biometric safeguard that the user may activate or be required to use; and
- (c) the app enables the app-user to change or delete personal information in the app, or provides information to the user on how to change or delete personal information.

11. The app may give the customer the option to receive communication by voice communication or a digital text format that is compatible with third-party accessibility apps.

12. If the licensee operates one or more accessible vehicles in its fleet, its app must give the passenger an option to request a wheelchair accessible vehicle for:

- (a) the transportation of a person in a wheelchair or mobility device; and
- (b) purposes other than transporting a person in a wheelchair or mobility device.

Geo-Fencing

13. The app must have geo-fencing capability.

14. The app must only connect drivers with passengers for pick up within the originating area and drop off within the destination area that is authorized in the licensee's terms and conditions of licence.

Advance Fare Information

15. Based on travel distance and time information that is available when a passenger requests a ride, and before the passenger agrees to a ride, the app must present the passenger, in a prominent manner, either:

- (a) an estimated fare; or
- (b) an up-front fare.

16. When an app presents an estimated fare to a passenger, the app must clearly indicate that:

- (a) the fare is an estimate only; and,
- (b) the passenger will be charged based on travel time or distance, or both during the ride.

17. After a passenger has agreed to pay an up-front fare, the app must, at the end of the ride, charge the up-front fare unless:

- (a) a change is made to the requested destination or the ride's estimated time or distance diverge by 5% or more from the actual time or distance of travel; and
- (b) the app, before the end of the ride transmits the following information to the passenger:
 - (i) notice that the up-front fare has been suspended or replaced;

- (ii) the new method and applicable rates for calculating the fare;
- (iii) contact information or an in-app channel to get more information about the change, or to dispute the change.

Pre-Ride Information for Passengers

18. The app must transmit to the passenger the following information before the passenger enters the TNS vehicle:

- (a) the driver's first name;
- (b) the driver's photo;
- (c) the vehicle make, model, colour and BC licence plate number;
- (d) a prominent notice that the above-noted information is important for passenger safety.

Information Records

19. The app must record, at the time the TNS Vehicle is hailed through the app, the following information:

- (a) the time, date and location where and when the passenger is to be picked up;
- (b) the destination where the passenger is to be discharged;
- (c) driver's first name, photo and a unique identifying number for the driver; and
- (d) the make, model, year, colour and British Columbia licence plate number of the TNS vehicle.

GPS Tracking

20. The app must provide real-time GPS tracking and show the passenger the TNS vehicle while travelling to pick up the passenger or while carrying the passenger.

Payment Processing Options

21. A licensee must ensure that drivers using the app:

- (a) only accept payment for a ride that is processed through the app that the passenger used to hail the ride; and
- (b) do not accept payment by cash or by any method or system of payment that is separate from the app.

22. The app may only process payment for a gratuity when the gratuity is at the discretion of the passenger.

Electronic Receipt

23. The app must, at the end of the ride, immediately provide to the passenger an electronic receipt containing:

- (a) the passenger's first name;
- (b) the driver's first name;
- (c) the time and date that the TNS vehicle service was arranged;
- (d) the location and time where and when the passenger was picked up;
- (e) the location and time where and when the passenger was dropped off;
- (f) fare information that includes separate line items for:
 - (i) charges for the ride;
 - (ii) GST included in the fare; and
 - (iii) fare including GST; and
- (g) a separate line item or separate receipt that identifies gratuities the passenger paid for a ride.

Driver & Passenger Ratings

24. The app must allow passengers and drivers to rate one another after a ride.

Service Issue Resolution

25.1 The app must provide passengers with information and a means of contacting the TNSA licensee through the app, by other electronic means or by phone with a number that is toll-free in BC, to:

- (a) address disputes;
- (b) request and obtain lost items; and
- (c) address other service issues or complaints.

25.2 The app must provide the passengers with the e-mail of the Passenger Transportation Branch of the Ministry of Transportation and Infrastructure and indicate complaints not satisfactorily resolved through 25.1 may be e-mailed to the Branch.

Access for Investigators

26. The licensee must provide the Registrar and police a method to access the app and locate a driver or vehicle operating on the licensee's online platform.

F. Dates

Effective Date:
September 16, 2019

Appendix 4

Data Requirements

[Data Requirements](#), effective September 3, 2019, as amended from time to time, apply.

I. Purpose

To establish data requirements for licensees who hold, or are deemed to hold, a Passenger Directed Vehicle Authorization (PDVA) or a Transportation Network Services Authorization (TNS).

II. Legislation

Section 28(5) of *Passenger Transportation Amendment Act* states that –

The board must establish as a term or condition of a passenger directed vehicle authorization or transportation network services authorization that the licensee must provide to the registrar any information, including personal information, and data that the registrar or the board may require, including, without limitation, information and data respecting

- (a) the motor vehicles, and the drivers of those motor vehicles, operated under the authorization,
- (b) the availability of the motor vehicles, at given points in time, for hailing by methods permitted under the authorization, and
- (c) trips taken by passengers transported in accessible passenger directed vehicles or trips taken by passengers transported in non-accessible passenger directed vehicles, or both, including
 - (i) trip rates,
 - (ii) wait times,
 - (iii) pick-up times and locations, and
 - (iv) drop-off times and locations.

The Passenger Transportation Regulations, which will be in force on September 16, 2019 states:

32 (1) In this section:

“**amending Act**” means the *Passenger Transportation Amendment Act, 2018*, S.B.C. 2018, c. 53;

“pre-existing licence” means a valid licence that, on September 15, 2019, authorizes one or more motor vehicles to be operated as passenger directed vehicles.

(2) It is a term and condition of every pre-existing licence that the licensee must provide to the registrar any information, including personal information, and data that the registrar or board may require for the purposes of

- (a) more effectively bringing the amending Act into operation, or
- (b) addressing transitional difficulties encountered in bringing the amending Act into effect.

III. Applicability

The data requirements in this document apply to:

- (a) a licensee with a Passenger Directed Vehicle Authorization (PDVA) whose licence expressly authorizes motor vehicles to be hailed from the street;
- (b) a licensee with a PDVA whose licence does not permit hailing and flagging from the street; and
- (c) a licensee with a Transportation Network Services Authorization (TNSA).

IV. Definitions

In this document:

“act” means the *Passenger Transportation Act*, as amended on September 16, 2019;

“board” means Passenger Transportation Board;

“data requirements” means the requirements set out in section V of this document;

“fare” means the total transportation charges and taxes for a trip including any surge- or variable-pricing adjustment and excluding any gratuities;

“limousine service” means a service provided by a licensee required in section III (b) of this document; S.B.C. 2018, c. 53;

“licence” means a licence issued under the act and includes a Passenger Directed Vehicle Authorization or Transportation Network Services Authorization;

“licensee” means the holder of a valid licence and to which this rule applies pursuant to section 1 of this document;

“registrar” means the Registrar of Passenger Transportation appointed under the act;

“taxi service” means a service provided by a licensee referred to in section III (a) of this document;

“TNS” means a Transportation Network Service as defined in the act.

V. Data Requirements

The board requires licensees to provide the following information:

1. Licensee Information

- a. User Id number
- b. Application Id number
- c. Passenger transportation (PT) licence number
- d. National Safety Code (NSC) number

2. Trip and Shift Classification

- a. Service type – taxi service, TNS service, limousine service
- b. Start date of submitted trip data
- c. End date of submitted trip data
- d. Data and time of file creation

3. Shift, Driver and Vehicle Information

- a. Vendor shift ID
- b. Vehicle registration number
- c. Province/State in which the vehicle is registered
- d. Driver's licence number
- e. Province/State in which the driver is licenced
- f. Start of driver's shift or login into the dispatch system
- g. End of driver's shift or logout from the dispatch system

4. Trip Data

- a. Shift ID
- b. Trip ID
- c. Trip type (accessible, conventional, pre-booked, service animal)
- d. Trip status (Completed, cancelled by requester, no-show of requester, refused by driver)
- e. Hail type (flag, phone, interactive voice response request (IVR), application-based request (app), request via website)

5. Trip Initiation

- a. Date/Time when the trip request was initiated or assigned.
- b. Time elapsed from call initiation to call answer by the dispatcher or IVR system (for IVR and phone hails)
- c. Degrees latitude of the requested pickup location
- d. Degrees longitude of the requested pickup location

6. Trip metrics

- a. Trip duration
- b. Trip distance
- c. Fare of the trip

7. Pick-Up and Drop-off times and locations

- a. Date and time of arrival at the requested passenger pick-up and drop-off location
- b. Date and time of departure from the requested passenger pick-up and drop-off location
- c. Degrees latitude of the requested passenger drop-off location
- d. Degrees longitude of the requested passenger drop-off location

VI. Implementation Schedule

Type of Service and Effective Date of Rule

TNS - September 16, 2019

TNS operating in small communities with population less than 10,000 as defined by Statistics Canada - TBD

TNS must collect this data from the date that they start operating. Additional information relating to the submission deadlines and format will be provided separately.

Appendix 5

Minimum Rates

The minimum rates and rules below apply to each ride provided.

TNS Minimum Rates:

TNS Operating Region	Regional Districts	TNS Minimum Rates
1. Lower Mainland, Whistler	Metro Vancouver Fraser Valley Squamish-Lillooet	\$3.35
3. Vancouver Island excluding CRD	Cowichan Valley Nanaimo Comox Valley Alberni-Clayoquot Strathcona Mount Waddington Qathet (Powell River)	\$3.40

Rules Applicable to TNS Minimum Rates:

- Minimum rates for TNSs are based on taxi flag rates in an operating region, as determined by the Board.
- The use of coupons or discounts by TNSs to lower rates below the minimum rate is prohibited.
- TNS minimum rates include GST