

Licence Application Decision

Inter-City Bus—Amendment

Application #	9000-20
Applicant & Application Summary	<p>Tofino Bus Services Inc.</p> <p>Vancouver Island Connector, Tofino Bus Lines, All Island Express</p> <p>Amend ICBA Licence</p> <p>Eliminate the following route:</p> <p>Route 5: Campbell River – Port Hardy</p>
Applicant Information	<p><i>Current Passenger Transportation Licence: #75127 with:</i></p> <ul style="list-style-type: none"> • Inter-City Bus Authorization (ICBA) • General Authorization (GA) <p><i>Principals:</i></p> <ul style="list-style-type: none"> • Craig CAREFOOT • John WILSON <p><i>Office: 2230 McGarrigle Road, Nanaimo, BC V9S 4M3</i></p>
Publication of Application	May 13, 2020
Submissions & Public Comments	<p>Comments were received from 29 private citizens and the:</p> <ul style="list-style-type: none"> • Mayor of the Town of Port McNeill • Mayor of the District of Port Hardy • Chair of the Regional District of Mount Waddington • Mount Waddington Health Network
Board Decision	<p>The application is approved in whole:</p> <ul style="list-style-type: none"> • Terms and conditions respecting Route 5 are eliminated as requested in the application summary.
More Info	<p>Notice of applications and published decisions are posted in the PT Board Bulletin. For convenience, published documents for recent ICB applications are listed on the bus application webpage.</p>
Decision Date	September 1, 2020
Panel Chair	Roger Leclerc

I. Introduction

The applicant, Tofino Bus Services Inc. (**TBSI**), does business as Vancouver Island Connector, Tofino Bus Lines and All Island Express. The applicant has a licence to operate inter-city buses (ICBs). The licence includes the following routes and minimum route frequencies (MRFs):

- Route 1 (City of Nanaimo – District of Tofino) with MRF of 32 trips per week in each direction
- Route 2 (City of Victoria – District of Tofino) with MRF of 3 trips per day in each direction
- Route 3 (District of Tofino – District of Ucluelet) with MRF of 1 trips per day in each direction
- Route 4 (City of Nanaimo – City of Campbell River Victoria) with MRF of 2 trips per day in each direction
- Route 5 (City of Campbell River – District of Port Hardy) with MRF of 1 trip per day in each direction

II. Applicant's Proposals

Route 5

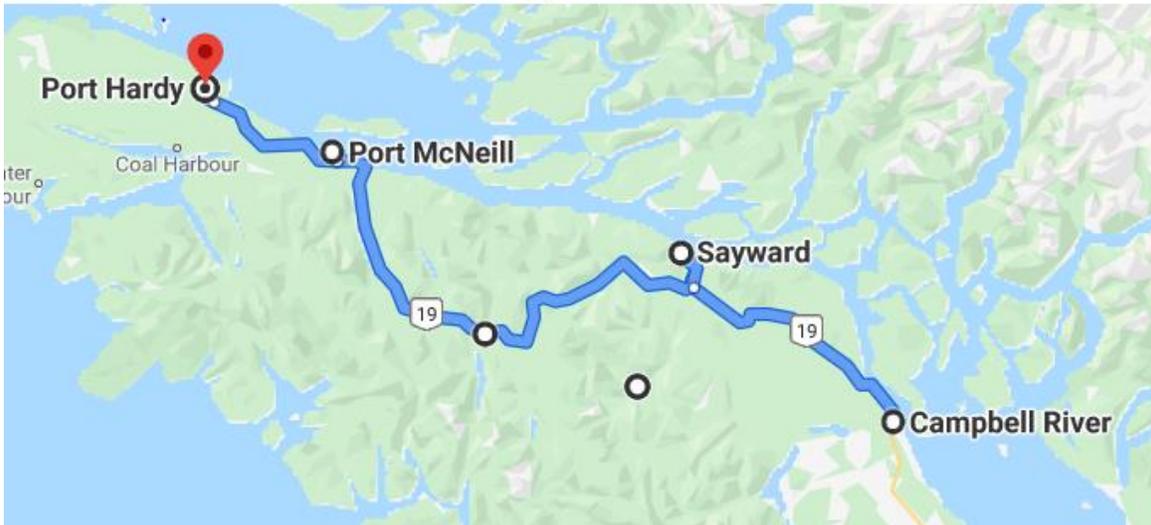
Route 5 serves 7 communities from the City of Campbell River to the District of Port Hardy along Highway 19.

- City of Campbell River
- Woss Camp
- District of Port Hardy
- Sayward & Highway 19
- Town of Port McNeill
- Village of Sayward
- Port Alice Junction

The minimum route frequency for the route is 1 trip per day in each direction.

The applicant seeks to eliminate the route. Figure 1 below shows a map of the route.

Figure 1: Route 5 (Proposed for Elimination)



III. Background

Tofino Bus Lines has been operating as an inter-city bus on Vancouver Island since 2002. In 2015 it became the only scheduled inter-city bus serving all of Vancouver Island.

In November 2018, Tofino Bus Lines was sold to an ownership group lead by John Wilson, CEO of Wilson's Group of Companies under 1183207 BC Ltd. On September 2019, 1183207 BC Ltd. changed their name to Tofino Bus Services Inc. Tofino Bus Services Inc. was incorporated in October 2018 in British Columbia with 2 directors.

Terminology in this Document

"Route" refers to an inter-city bus route as set out in the terms and conditions of Tofino Bus Service's Passenger Transportation Licence. As an example, from this application, Route 5 in the Tofino Bus Services licence specifies communities that must be served between Campbell River to Port Hardy.

"Route Points" refers to inter-city bus route points are usually stated as municipalities (eg. incorporated cities, towns and/or villages) and unincorporated towns and villages. The boundaries of a route point are the legal boundary of the incorporated or unincorporated area.

“Minimum Route Frequency” refers to the minimum route frequency that is set or approved by the Board and set out in a Passenger Transportation Licence.

“Schedule” refers to a schedule that specifies the route points as well as the days and times when a licensed inter-city bus operator picks up and drops off passengers along the route. Specific schedules are set by Tofino Bus Service and not subject to Board approval. However, Tofino Bus Services is required to post and operate schedules that comply with the terms and conditions of its Passenger Transportation Licence. The terms and conditions include the minimum route frequency that was established by the Board.

IV. Mandate & Jurisdiction

This application is made under the *Passenger Transportation Act* (the “Act”). The Act regulates the licensing and operation of commercial passenger transportation vehicles in BC.

Under the Act, the Passenger Transportation Board (the “Board”) makes decisions on applications for inter-city buses. The Board has the authority to consider and approve applications for new licences as well as applications from existing licensees to change terms or conditions of their licences.

The Board’s mandate is stated in section 28 of the Act. Section 28(1) of the Passenger Transportation Act says that the Board may approve, in whole or in part, an application forwarded to it under s. 26(1) after considering whether:

- (a) there is a public need for the service the applicant proposed to provide under any special authorization.
- (b) the applicant is a fit and proper person to provide that service and is capable of providing that service, and
- (c) the application, if granted, would promote sound economic conditions in the passenger transportation business in British Columbia.

The Act allows the Board to, among other things,

- accept evidence and information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in a court of law. [Section 15]
- conduct written, electronic or oral hearings, or any combination of them, as the Board, in its sole discretion, considers appropriate. [Section 17]
- require further information from an applicant. [Section 27(1)(b)]

Section 26(2) of the Act requires the Board to publish the fact and nature of applications and section 27(3) requires the Board to consider applications and any written submissions it receives as result of publication. Section 27(5) says that people who make submissions are not entitled to disclosure of further information, unless the Board orders otherwise.

If the Board approves an application, it will set terms and conditions of licence primarily with respect to routes and service levels.

V. Procedural Matters

This application is being conducted by way of a written hearing.

The Passenger Transportation Board sent a letter to the applicant on July 21, 2020 requesting additional information. The applicant sent all requested information to the Passenger Transportation Board on July 31, 2020.

VI. Applicant's Rationale and Public Comments

Inter-city bus operators applying for a route reduction or minimum route frequency reduction must: publish notice of proposed changes on the applicant's website; in terminals, depots or agent's premises; and provide written notice of proposed changes to mayors and councils of affected municipalities, chairs and directors of regional districts and First Nation Councils/Nations. Applicants must also provide a "Rationale for a Route Reduction or Minimum Frequency Reduction" to the Board for posting on our website.

The applicant complied with the notice requirements.

Public Rationale

The applicant provided a Rational Statement dated March 12, 2020 that was attached to the published application summary. In addition, the following Public Explanation was noted in the Application Summary that was published in the *Weekly Bulletin*:

Due to the low ridership and lack of profitability of this route our company is forced to apply to eliminate service on this corridor.

See the applicant's Rationale Statement for more detail.

Public Comments & Applicant's Response

With respect to the proposed changes to TBSI's licence, the Board received and considered 33 public comments in total, 29 from private individuals, a Regional Coordinator of the Mount Waddington Health Network, the Mayor of the Town of Port McNeill, the Mayor of the District of Port Hardy and the Chair of the Regional District of Mount Waddington

The submissions from the 29 individuals and Mount Waddington Health Network related to the following main concerns:

- Withdrawal of services in the midst of the COVID19 pandemic when vulnerable and senior people are sheltered at home.
- Lack of transportation options on the north island which has a high percentage of low-income families who cannot afford a car. Eliminating the bus route entirely leaves the community stranded. Many people have no other way to get to medical appointments and/or hospital procedures and treatments because they do not have a vehicle.
- First Nations health organizations use the service.

Some commented that reducing service or using different vehicles may be an option.

One individual noted that TBSI is a private company that should be able to cancel an unprofitable route.

The Mayor and Council of Port McNeill, Mayor of the District of Port Hardy and Regional District of Mount Waddington stated;

- Permanent elimination of the route without an alternate carrier will cause significant harm to the regular users of the service including seniors and persons with disabilities, many of whom have limited options for alternate travel modes.
- There are a number of Indigenous and non-Indigenous community members that are potentially negatively impacted by this application.

- The short time frame for this application does not provide sufficient time to collectively look at alternate options.
- This route previously operated by Greyhound Bus Lines is essential to North Island residents and tourists.
- Two transportation companies have now stated the North Island does not financially support a private entity and requires public subsidy to be viable.

Applicant's response:

- When reviewing the responses regarding the application one thing is clear - there are residents of Northern Vancouver Island who use and need the service that Tofino Bus provides. Where the issue lies is that ridership is extremely low and when you factor in the very high mileage of the North Island route the fuel and wear and tear cost far outweigh the revenue prospects of the passengers who require the service. TBSL estimate that they lost approximately \$175,000 on the Route 5 corridor in 2019.
- Another common mention in the submissions is a request to reduce the frequency of runs rather than cancel the service altogether but this does not work on a scheduled service. Passengers ride the bus when they require them, not when the bus is running. If TBSL only operated 1 day a week and that did not line up with the passenger's needs, they will find another way rather than coordinate plans around the bus service schedule. There is no schedule that would make the route feasible to maintain.
- This route has regularly struggled to provide a profitable landscape for any operator of the route. In the past, Greyhound operated the entire network of Vancouver Island; they reported extensive losses on this corridor which inevitably led to Greyhound ceasing operations on Vancouver Island and in Western Canada.

In today's market there is little opportunity for private inter-city bus operators to offset losses from profits on other routes.

I have considered the opposing submissions and the applicant's responses to them in the review of this application.

VII. Reasons for the Board's Decision

Section 28(1) of the Act sets out the factors the Board must consider with respect to this application.

(1) Is the applicant a fit and proper person to provide its proposed service, and is the applicant capable of providing the service?

The Board looks at this question in two parts:

- (a) is the applicant a *fit and proper person* to provide the proposed service; and,
- (b) is the applicant *capable* of providing the service?

First, with *fit and proper*, the *Oxford English Dictionary* defines *fit* as including “well adapted or suited to the conditions or circumstances of the case, answering the purpose, proper or appropriate possessing the necessary qualifications, properly qualified, competent, deserving.” Also, the dictionary defines *proper* as including “suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; of the requisite standard or type; apt, fitting; correct, right.” When looking at whether an applicant is fit and proper, the Board does so in the context of the passenger transportation industry in British Columbia. This includes the regulatory system that grants businesses a licence which confers on them both the authorization they need to provide their service and an ongoing obligation to operate in accordance with proper standards of conduct.

Second, capability is generally understood to mean that an applicant has the ability or qualities necessary to skillfully and effectively meet its obligations and achieve the results it says it will achieve. When looking at capability, the Board reflects on whether the applicant has demonstrated that it has the knowledge and understanding of relevant regulatory requirements and policies that govern passenger transportation providers, and whether it is able to comply with those requirements. It also looks at whether the applicant has the background, skills and knowledge to manage its proposed service, and the financing to operate it. The Board expects an applicant to demonstrate its competence and

ability by providing sound and realistic information in its business plan and financial statements that is consistent and compatible with the transportation service it proposes.

When an applicant proposes to reduce service, the Board is likely to apply the logic that the licensee is a fit and proper person to provide the service proposed unless there is compelling evidence to the contrary.

TBSL is a private corporation with John Wilson as founder, sole shareholder and President. Alongside him is a team of long-term executives and managers, many of whom are family members. Wilkson's is a three generation company that has been in business since 1962. TBSL has also hired Rick Salewski, 40 years of experience in the bus industry, who was Greyhound's Vancouver Island operations manager for 10 years.

The disclosure forms of Unlawful Activity and Bankruptcy indicated no negative concerns about the principal.

TBSL's National Safety Code (NSC) safety performance rating is satisfactory-unaudited which is acceptable to the Board.

The applicant signed the Liquor Control and Licencing Act declaration stating, among other things, that it will operate its vehicles in accordance with the Act.

The applicants have provided a business plan and financial information (basic profit and loss report for route). The applicant sent additional financial information (cash flow, profit and loss and balance sheets) as requested by the Passenger Transportation Board letter on July 21, 2020.

Based on the information and evidence above, I find that Tofino Bus Lines Ltd. continues to be a fit and proper entity to provide the proposed service and is capable of providing intercity bus service.

(2) Is there is a public need for the service the applicant proposes to provide?

With an application to eliminate inter-city bus services, the Board considers what, if any, level of service meets the public need. Does ridership on a route demonstrate sufficient

public demand or need for the route and are there any transportation alternatives available?

The annual ridership on the corridor between Port Hardy and Campbell River for the 2019 calendar year was 4068 passengers. TBSL is required by the Board to operate a bus in each direction daily. This makes the average ridership on these routes 5.5 passengers in each direction. TBSI maintains it is not feasible to operate this route averaging only 5 passengers per day. The route is 250 kilometers in length and the operating costs far outweigh the revenue prospects.

TBSL estimates show a significant loss on the Route 5 corridor in 2019 leaving them in a deficit position.

The submissions from the 29 individuals and Mount Waddington Health Network discuss the need for intercity bus services between Campbell River and Port Hardy. The North Island has a high percentage of low-income families, elderly and other people who have no other transportation than the bus service. First Nations Health Services use it often for transportation.

Representatives for the Town of Port McNeill, Regional District of Mount Waddington and District of Port Hardy state that permanent elimination of the route without an alternate carrier will cause significant harm to the regular users of the service.

The applicant agrees that there are residents of Northern Vancouver Island who use and need the service that TBSI provides. However, ridership is extremely low. When one factors in the very high mileage of the North Island route, the fuel and wear and tear costs far outweigh the revenue prospects of the passengers who require the service. Reducing the frequency of runs rather than cancelling the service altogether does not work on a scheduled service. Passengers ride the bus when they require them, not when the bus is running. In today's market with diminishing profitability in many larger markets like Victoria, Duncan and Nanaimo, the losses on North Island are no longer offset for the intercity bus operator.

While some use of the service has been demonstrated, overall ridership is very low. The applicant has submitted financial information validating that route 5 is not financially viable and is in fact sustaining a loss. Continued losses cannot be sustained.

Based on the analysis above, I find that public need is not sufficient to sustain the route and therefore, I approve elimination of the route.

(3) Would approving the application support sound economic conditions in the passenger transportation business in British Columbia?

The Board must consider whether approving the application would promote sound economic conditions in the passenger transportation business in British Columbia. This includes, but is not limited to, the financial health of the applicant seeking a route elimination. The Board reviews such things as:

- The financial performance of the applicant
- Ridership on the intercity bus
- Other transportation options that may be available

The Board considered its policy noted above, the public submissions and the Tofino Bus Service proposal of eliminating route 5. The Board finds that the continuation of providing passenger transportation services on route 5 are not economically viable. The elimination of route 5 is reasonable based on the evidence of low ridership and lost revenue and operating in a deficit. This deficit position will also have a negative impact on the whole business model of Tofino Bus Services on Vancouver Island. The Board, therefore finds the approval of this application will promote sound economic conditions in the passenger transportation business in British Columbia.

VIII. Conclusion

For the reasons above, this application is approved in whole. The Board establishes notice and activation requirements, and terms and conditions of licence that are attached to this decision as Appendices 1 and 2. These form an integral part of the decision.

Tofino Bus Services Inc.

Vancouver Island Connector, Tofino Bus Lines, All Island Express

Appendix 1: Activation of Approved Amendments

1. General:

A Passenger Transportation Licence must be issued by the Registrar of Passenger Transportation under section 29 of the Passenger Transportation Act or renewed under section 34 before the licence amendments approved in this decision may be exercised.

2. Direction to the Applicant:

- a. After this decision is published, Tofino Bus Services Inc. (TBSI) must, at least 14 days before implementing schedule changes, post notice of the changes and the effective date
 - i. in a prominent location on the Tofino Bus Services Inc. website and
 - ii. at its terminal or agents' premises along the affected route.
- b. Copies of the notices must be provided to the Registrar of Passenger Transportation before an amended licence may be obtained.
- c. The Passenger Transportation Board may vary the requirements set out in the Direction above, if circumstances warrant it.

3. Notice to Registrar

- a. An amended licence that reflects the elimination of Route 5 may only be issued after Tofino Bus Services Inc. has given the Registrar copies of the notices of changes that are required in the "Direction to the Applicant"
- b. An amended licence that reflects the elimination of Route 5 may only be issued after the Board has approved Tofino Bus Services Inc.'s notices of change.

4. Definition

- a. *Activate* means that the applicant has submitted to the Registrar of Passenger Transportation documents that are required to obtain a Special Authorization Vehicle Identifier.

Appendix 2: Terms & Conditions

Special Authorization INTER-CITY BUS AUTHORIZATION (ICBA) Terms & Conditions	
Definitions	<p>“Board” means the Passenger Transportation Board</p> <p>“Registrar” means the Registrar, Passenger Transportation</p>
A. Legislative Requirements	
Vehicle Identifiers	<p>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:</p> <ul style="list-style-type: none"> (a) issued to the licensee by the Registrar; or (b) authorized by the Registrar to be issued by the licensee.
B. Services	
Services	<p>Transportation of passengers must be provided:</p> <ul style="list-style-type: none"> (a) on a scheduled basis; and (b) in accordance with minimum frequencies and other terms and conditions of licence that apply to the routes and route points.
Schedules	<p>The licence holder must publish, in a manner accessible to the general public, a schedule for each route with the time and location of each stop; and must carry in each vehicle a copy of the schedule that the vehicle is following.</p>
Express Authorization	<p>Transportation of standees is authorized only when all of the following conditions are met:</p> <ul style="list-style-type: none"> (a) The licence holder has current and proper insurance coverage for the transportation of standees (b) Passengers are not permitted to stand for a period that is longer than 30 minutes or for a distance that exceeds 30 road kilometers, and (c) Freight and passenger baggage is not carried in the passenger compartment when standees are being

	transported.	
Route Overlap	<p>The licence holder may publish schedules and operate vehicles in a way that consolidates the District of Tofino – City of Nanaimo portion of Routes 1 and 2 on the condition that:</p> <ul style="list-style-type: none"> (a) passengers traveling northbound via the consolidation point of Nanaimo are able to continue their trip to their destination north and west of Nanaimo, and (b) the scheduled wait time at the consolidation point of Nanaimo does not exceed 30 minutes. <p>When inter-city bus routes are consolidated and the above “route overlap” conditions are met, the operation of one vehicle on the District of Tofino – City of Nanaimo corridor is deemed, with respect to route frequency determinations, to be a vehicle operating on both routes.</p>	
Abbreviations	<p>The following abbreviations are used to describe terms and conditions of this special authorization:</p> <ul style="list-style-type: none"> alt “alternate” Route Points that is not located directly enroute between other Route Points authorized by the Board; service may be provided to one or more alternate Route Points at the option and frequency of the licence holder on the condition that all minimum route frequencies approved or set by the Board are maintained. rd: “reserve drop” stops are made only to pick up or drop off passengers who have made an advance reservation with the licensee or agent of the licensee. 	
Route 1 of 4		
Terminating Point 1:	City of Nanaimo	
Terminating Point 2:	District of Tofino	
Corridors:	Highways 1, 4, 4A, 19 & Tofino Ucluelet Hwy	
Route Points	Minimum Frequencies	
City of Nanaimo	2 trips per day (each direction)	32 trips per week (total)
Wellington	1 “rd” per day (each direction)	28 “rd” per week (total)

Nanoose	1 “rd” per day (each direction)	28 “rd” per week (total)
Craig’s Crossing	1 “rd” per day (each direction)	28 “rd” per week (total)
City of Parksville	2 trips per day (each direction)	32 trips per week (total)
Coombs	2 “rd” per day (each direction)	32 “rd” per week (total)
Hilliers	2 “rd” per day (each direction)	32 “rd” per week (total)
Cameron Lake	2 “rd” per day	32 “rd” per week (total)
City of Port Alberni	2 trips per day	32 trips per week (total)
District of Ucluelet	1 trip per day	14 trips per week (total)
District of Tofino	1 trip per day	14 trips per week (total)
Route 2 of 4		
Terminating Point 1:	City of Victoria	
Terminating Point 2:	District of Tofino	
Corridors:	Highways 1, 4, 4A & 19	
Alternate Routing:	The route points set out above do not preclude the licence holder from, on any portion of Highways 1, 4, 4A, 19 and 19A that is situated between the terminating points, making scheduled time stops or unscheduled drop-offs or conveying passengers who hail or flag the motor vehicle from the street.	
Route Points		
	Minimum Frequencies	
City of Victoria	3 trips per day (each direction)	
District of Saanich	3 trips per day (each direction)	
City of Langford	3 “rd” per day (each direction)	
Mill Bay	1 “rd” per day (each direction)	
Cobble Hill	1 “rd” per day (each direction)	
Cowichan Bay	1 “rd” per day (each direction)	
City of Duncan	3 trips per day (each direction)	

District of North Cowichan	1 "rd" per day (each direction)
Saltair	1 "rd" per day (each direction)
Town of Ladysmith	3 "rd" per day (each direction)
Cassidy	3 "rd" per day (each direction)
City of Nanaimo	3 trips per day (each direction)
City of Parksville	2 trips per day (each direction)
City of Port Alberni	2 trips per day (each direction)
Ucluelet/Tofino Junction	1 trip per day (each direction)
Pacific Rim National Park	1 trip per day (each direction)
Tofino Airport / Golf Course	1 trip per day (each direction)
District of Tofino	1 trip per day (each direction)
Route 3 of 4	
Terminating Point 1:	District of Tofino
Terminating Point 2:	District of Ucluelet
Corridors:	Highway 4 (Pacific Rim Hwy) & Tofino Ucluelet Hwy
Seasonal Operation:	Service must begin each year on March 1 and then cease on October 31.
Route Points	
	Minimum Frequencies
District of Tofino	1 trip per day (each direction)
Pacific Rim National Park	1 trip per day (each direction)
District of Ucluelet	1 trip per day (each direction)
Route 4 of 4	
Terminating Point 1:	City of Nanaimo
Terminating Point 2:	City of Campbell River

Corridors:	Highways 19 & 19A
Route Points	Minimum Frequencies
City of Nanaimo	2 trips per day (each direction)
Nanoose	1 “rd” per day (each direction)
City of Parksville	2 trips per day (each direction)
French Creek	1 “rd” per day (each direction)
Town of Qualicum Beach	1 “rd” per day (each direction)
Horne Lake Road	1 “rd” per day (each direction)
Bowser	1 “rd” per day (each direction)
Fanny Bay	1 “rd” per day (each direction)
Buckley Bay	1 “rd” per day (each direction)
Union Bay	1 “rd” per day (each direction)
Village of Cumberland	alt
Royston	1 “rd” per day (each direction)
City of Courtenay	2 trips per day (each direction)
Merville	1 “rd” per day (each direction)
Black Creek	1 “rd” per day (each direction)
Oyster River	1 “rd” per day (each direction)
City of Campbell River	2 trips per day (each direction)
C. Other Requirements	
Engaged Carrier Authorization	<p>The holder of this licence may operate as an inter-city bus when engaged by another licensed operator in the following limited circumstances:</p> <p>(a) the other licensed operator must have a special authorization to operate an inter-city bus under a licence issued pursuant to the <i>Passenger Transportation Act</i> (British Columbia) or the <i>Motor Vehicle Transport Act</i> (Canada);</p>

	<p>(b) the holder of this licence must have signed written authorization from the other licensed operator specifying the terms by which the licence holder is engaged including the period for which the written authorization is valid;</p> <p>(c) the holder of this licence must operate its vehicles in accordance with all the applicable terms and conditions of the other licensed operator’s licence; and</p> <p>(d) the holder of this licence must carry in its vehicles a copy of the written authorization referred to in paragraph (b) and a copy of the terms and conditions of the other licensed operator’s licence when operating under this engaged carrier authorization.</p>
Transfer of a licence	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> .
Liquor Control and Licensing Act Cannabis Control and Licensing Act	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> .