

# Licence Application Decision

## Inter-City Bus (ICB)

Application #	9608-20
Applicant & Application Summary	<p><b>Eagle Transit Ltd.</b>  <i>Trade Name:</i> Eagle Transit, Eagle Cabs, Island Transit, NH Connections Haida Gwaii</p> <p><b>Amend ICBA Licence</b></p> <ul style="list-style-type: none"> <li>Eliminate Route 1: Sandspit - Queen Charlotte Village</li> </ul>
Applicant Information	<p>Current Passenger Transportation Licence: #70836 with:</p> <ul style="list-style-type: none"> <li>Inter-City Bus Authorization (ICBA)</li> <li>Passenger Directed Vehicle Authorization (PDVA)</li> <li>General Authorization (GA)</li> </ul> <p>Principals:</p> <ul style="list-style-type: none"> <li>Deborah Ann CROSBY</li> <li>Calvin Charles CROSBY</li> </ul> <p>Office: Box 1341 Skidegate BC V0T 1S1</p>
Publication of Application	July 22, 2020
Submissions & Public Comments	None received.
Board Decision	The application is approved in whole.
More Info	Notice of applications and published decisions are posted in the <a href="#">PT Board Bulletin</a> . For convenience, published documents for recent ICB applications are listed on the <a href="#">bus application webpage</a> .
Decision Date	October 30, 2020
Panel Chair	Baljinder Narang

## I. Introduction

The applicant is Eagle Transit Ltd., doing business as Eagle Transit, Eagle Cabs, Island Transit and NH Connections Haida Gwaii. It has a passenger transportation licence with an Inter-city Bus Authorization, which allows it to operate inter-city buses (ICBs). The licence includes the following routes and minimum route frequencies (MRFs):

- Route 1 (Sandspit - Queen Charlotte Village) with a MRF of seven trips per week in each direction; and
- Route 2 (Queen Charlotte Village - Masset/Old Masset) with a MRF of five trips per week in each direction

## II. Applicant's Proposal

Eagle Transit Ltd. is applying to amend its licence to eliminate Route 1.

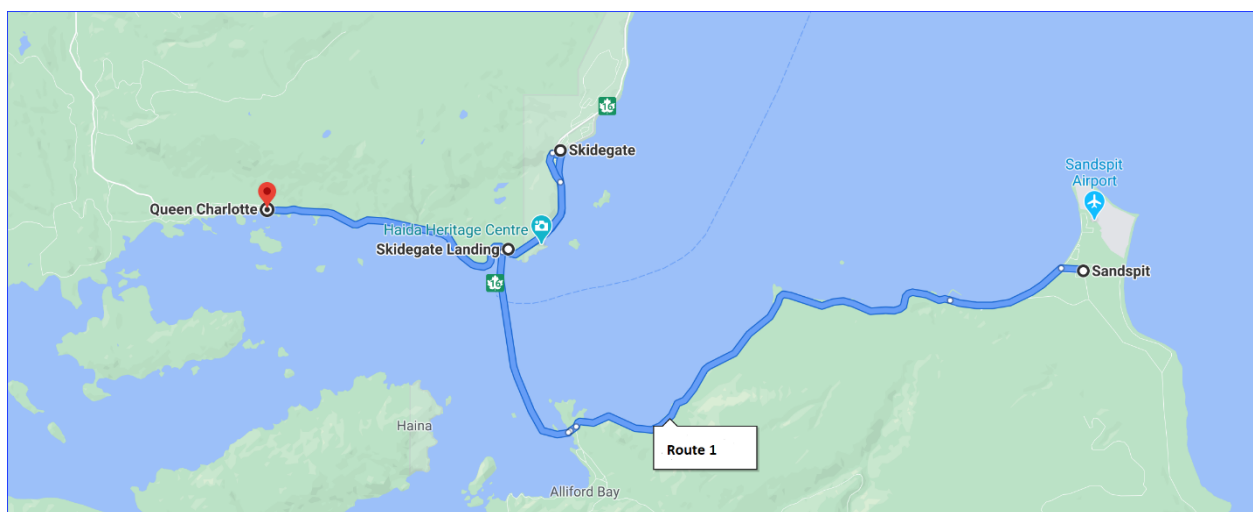
### *Route 1*

Route 1 serves a minimum of three communities from Sandspit to Queen Charlotte Village:

- Sandspit
- Skidegate
- Queen Charlotte Village

The minimum route frequency for the route is seven trips per week in each direction.

Figure 1 below shows a map of the route.



## ***Background***

Eagle Transit Ltd. has been operating passenger transportation services on Haida Gwaii for a number of years. The company operates under Licence #70836. In addition to operating ICBs, it is authorised to operate taxis and general passenger directed vehicles.

In March 2020, the Board advised inter-city bus operators that: *“In order to provide inter-city bus (ICB) operators the flexibility they need to respond quickly to public safety and transportation needs as they change during the coronavirus COVID-19 pandemic, licensees have the temporary option to reduce or suspend scheduled services that they are normally required to provide”.*

Pursuant to the above policy, Eagle Transit Ltd. suspended service on Route 1 on August 5, 2020. Approval of this application will make the suspension permanent.

The applicant submitted required application materials.

## **III. 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.

In the context of this application, the Board takes the following view of these issues:

- *Public Need*: Is the ridership on this route sufficient to demonstrate public demand for the route and are there any transportation alternatives available?
- *Applicant Fitness*: We are likely to apply the logic that a licensee seeking a reduction is a fit and proper person to provide the service proposed unless there is compelling evidence to the contrary.
- *Sound Economic Conditions* (in the passenger transportation business): This includes, but is not limited to, the financial health of the applicant seeking a reduction in service.

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 may set terms and conditions of licence.

#### **IV. Procedural Matters**

Section 17 of the Act allows the Board to conduct written, electronic or oral hearings, or any combination as the Board, in its sole discretion, considers appropriate. I am conducting this application by way of a written hearing.

## **V. Public Notice, Applicant's Rationale and Public Comments**

### ***Public Notice***

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 with the application summary.

The applicant provided copies of public notices which include a poster displayed at the local post office and letters it sent to the Village of Queen Charlotte, Skidegate Band Council, Council of the Haida Nation and the Skidegate Health Centre. I am satisfied that adequate notice provisions were given for this application.

### ***Public Explanation***

The applicant provided the following text for the Application Summary that was published in the *Weekly Bulletin* on July 22, 2020:

*"Due to declining service, plane delays, weather during winter months, ferry schedule does not meet schedule and no drivers, Eagle Transit has eliminated this service airport shuttle to Sandspit."*

### ***Submissions & Applicant's Response***

The Board did not receive submissions on this application

## **VI. 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.

The applicant submitted application forms and other materials that meet Board application requirements. Supportive documentation includes:

- Disclosure of Unlawful Activity and Bankruptcy forms from both principals;
- Declaration forms duly completed;

- Business Plan;
- Financial Information (Balance sheets, Statement of Income, and cash flow projections); and,
- Information received from the Registrar of Passenger Transportation indicates that the applicant has not had any recent administrative penalties and that applicant's National Safety Code Carrier Safety Rating is: Satisfactory.

The applicant's primary rationale for this request to eliminate this route is as follows:

- Last year, the company lost their regular drivers. With no replacement drivers, it became extremely challenging to provide the service seven days a week, with two flights per day over the summer months (July, August and September).
- The owners tried to recruit and train potential drivers but were unsuccessful in finding someone with qualifications to drive such as an unrestricted class 4 license, first aid training and criminal records check.
- The applicant states that it can continue to provide service for the rest of their licence as they have drivers that are available for work over the summer. With Route 1 eliminated from its license, it can continue to provide the rest of their taxi service, Northern Health and bus charters.

With no information to the contrary, the Board finds the applicant to be a fit and proper person to provide the service and capable of providing the service it proposes with respect to this application.

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

An applicant is required to demonstrate public need by showing that there are people who would use the proposed service. Applicants should provide clear information about the service it proposes, and they should provide supporting evidence that is factual and objective. They should not rely on general claims and their own opinion. The Board reviews applications and considers the extent and type of need that has been demonstrated for the proposed service.

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 applicant states multiple factors that have influenced its request to eliminate Route I between Sandspit - Queen Charlotte Village, including:

- A decline in service demand and no bookings;
- Plane delays and inability to coordinate with ferry schedules;
- Harsh weather conditions during winter months; and
- High operating costs.

The applicant has provided data that indicates a decline in ridership of over fifty percent from January to March of this year, with no passenger bookings from April onwards.

The applicant states that there is a non-profit organization in Sandpit that has a licence to provide an airport service and is better placed to fill the gap in service created by the elimination the proposed route.

The applicant has submitted financial information validating that Route 1 is not financially viable and is, in fact, sustaining a loss. Continued losses cannot be sustained.

The Board finds that there is not sufficient public need to require Eagle Transit to continue operating Route 1 and approves its application to eliminate it this route.

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 inter-city bus; and,



- Other transportation options that may be available.

The Board considered its policy noted above, and Eagle Transit's rationale regarding eliminating Route 1. The Board finds that the continuation of providing passenger transportation service on this Route is not economically viable for the applicant. The elimination of Route 1 is reasonable based on the evidence of low ridership, lost revenue, and operating at a deficit. This deficit position would also have a negative impact on the whole business model of Eagle Transit Ltd.

The Board finds that approval of this application will promote sound economic conditions in the passenger transportation business in British Columbia.

## **VII. 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, 2 and 3. These form an integral part of the decision.

**Note:** The Board is requiring Eagle Transit Ltd to send notices to the Village of Queen Charlotte, BC Ferries (Haida Gwaii), the Sandspit Airport, Skidegate Band Council, the Council of the Haida Nation and the Skidegate Health Centre that Eagle Transit has received approval to eliminate the route and will not resume service.

## **Eagle Transit Ltd.**

### **Eagle Transit, Eagle Cabs, Island Transit, NH Connections Haida Gwaii**

#### **Appendix 1: Terms and Conditions of Licence**

##### *Part A: Issuance of Licence with 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 and before a licence may be obtained, Eagle Transit Ltd. must:
  - i. notify Village of Queen Charlotte, BC Ferries (Haida Gwaii), the Sandspit Airport, Skidegate Band Council, the Council of the Haida Nation and the Skidegate Health Centre that Eagle Transit has received approval to eliminate the route and will not resume service.
  - ii. Provide copies of the notices to the Registrar of Passenger Transportation.
- b. 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 the Sandspit-Queen Charlotte route may only be issued after Eagle Transit Ltd. 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 the Sandspit-Queen Charlotte route may only be issued after the Registrar has approved Eagle Transit Ltd.'s notices of change.

## Eagle Transit Ltd.

**Eagle Transit, Eagle Cabs, Island Transit, NH Connections Haida Gwaii**

### Part B: Terms & Conditions

<b>Special Authorization INTER-CITY BUS AUTHORIZATION (ICBA) Terms &amp; Conditions</b>	
Definitions	“Board” means the Passenger Transportation Board “Registrar” means the Registrar, Passenger Transportation
<b>A. Legislative Requirements</b>	
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: <ul style="list-style-type: none"> <li>a. issued to the licensee by the Registrar; or</li> <li>b. authorized by the Registrar to be issued by the licensee.</li> </ul>
<b>B. Services</b>	
Services	Transportation of passengers must be provided: <ul style="list-style-type: none"> <li>a. on a scheduled basis; and</li> <li>b. in accordance with minimum frequencies and other terms and conditions of licence that apply to the routes and route points.</li> </ul>
Schedules	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.
Vehicle Changes	The operator may require passengers to switch vehicles a terminating points or intermediate points.
Service Exceptions	1. No service is required

	<ul style="list-style-type: none"> <li>a. on any day that a commercial airplane (that can carry more than 25 passengers) is not scheduled to land and take off from Masset Municipal Airport.</li> <li>b. between the Village of Queen Charlotte and any route points north of the Village of Queen Charlotte on statutory holidays or when less than 2 reservations are booked in time for the scheduled start of the service if licence holder is able to contact and advise any person who made a reservation of the change.</li> </ul> <p>2. If there are no reservations to travel to the Masset Municipal Airport, the operator may run a route only from the Masset Municipal Airport to the Village of Queen Charlotte.</p>
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<b>Route 1</b>	
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Terminating Point 1:	Village of Queen Charlotte
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Terminating Point 2:	Old Massett (or Masset)
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Corridors:	Highway 16
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Route Points	Minimum Frequencies
Village of Queen Charlotte (including Skidegate Landing)	5 trips per week (each direction)
Skidegate	5 trips per week (each direction)
Tlell	5 trips per week (each direction)
Village of Port Clements	5 trips per week (each direction)
Village of Masset (including Masset Municipal Airport)	5 trips per week (each direction)
Old Massett	5 trips per week (each direction)

<b>C. Other Requirements</b>	
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> .
<b>Special Authorization Passenger Directed Vehicles Authorization Terms &amp; Conditions</b>	
Definitions	“Board” means the Passenger Transportation Board “Registrar” means the Registrar, Passenger Transportation
<b>A. Legislative Requirements</b>	
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: <ul style="list-style-type: none"> <li>a. issued to the licensee by the Registrar; or</li> <li>b. authorized by the Registrar to be issued by the licensee.</li> </ul>
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 Passenger Transportation Act.
<b>B. Passenger Transportation Vehicles</b>	
Maximum Fleet Size	3 vehicles of which: <ul style="list-style-type: none"> <li>• a maximum of 2 can be operated under Service 1; and</li> <li>• a maximum of 1 can be operated under Service 2.</li> </ul>

Vehicle Capacity	<p>Service 1:</p> <ul style="list-style-type: none"> <li>Vehicles can accommodate a driver and not less than 2 and not more than 7 passengers.</li> </ul> <p>Service 2:</p> <ul style="list-style-type: none"> <li>Vehicle can accommodate a driver and not less than 6 and not more than 11 passengers.</li> </ul>
<b>C. Originating Areas &amp; Services</b>	
<i>Service 1</i>	<i>The following terms and conditions apply to Service 1:</i>
Originating Area	Transportation of passengers may only originate from points on Haida Gwaii, including Masset Municipal Airport, Sandspit Airport and BC Ferry terminal.
Destination Area	Transportation of passengers may only terminate at points on Haida Gwaii, including Masset Municipal Airport, Sandspit Airport and BC Ferry terminal.
Hailing in Originating Area	<ol style="list-style-type: none"> <li>A trip may be arranged by taxis by: <ol style="list-style-type: none"> <li>booking the motor vehicle in advance;</li> <li>hailing the motor vehicle from the street;</li> <li>hailing the motor vehicle through a dispatcher; or</li> <li>hailing the motor vehicle through an app that does not process payment for the fare.</li> </ol> </li> <li>Passengers must not be hailed through a Transportation Network Service app that connects drivers with passengers who hail and pay for the services through the use of an online platform.</li> </ol>
Top Lights	Motor vehicles may be equipped with a top light.
Taxi Cameras & Meters	Taxi camera equipment may only be installed and operated in the vehicle when the licensee is in compliance with applicable rules, standards and orders of the Passenger Transportation Board.
Taxi Bill of Rights	<p>A Taxi Bill of Rights may only be displayed in vehicles when the licensee:</p> <ol style="list-style-type: none"> <li>has received written approval of the Board to operate a taxi bill of rights program; and</li> <li>is in compliance with applicable Taxi Bill of Rights rules, supplemental terms and conditions, standards and orders of the Board.</li> </ol>

<b>Service 2</b>		<i>The following terms and conditions apply to Service 2:</i>	
Originating Area	Transportation of passengers may only originate from points on Haida Gwaii, including Masset Municipal Airport, Sandspit Airport and BC Ferry terminal.		
Destination Area	Transportation of passengers may only terminate at points on Haida Gwaii, including Masset Municipal Airport, Sandspit Airport and BC Ferry terminal.		
Hailing in Originating Area	<ol style="list-style-type: none"> <li>1. A trip may be arranged by: <ol style="list-style-type: none"> <li>a. booking the motor vehicle in advance;</li> <li>b. hailing the motor vehicle through a dispatcher; or</li> <li>c. hailing the motor vehicle through an app that does not process payment for the fare.</li> </ol> </li> <li>2. Passengers must not be hailed through a Transportation Network Service app that connects drivers with passengers who hail and pay for the services through the use of an online platform.</li> <li>3. The licensee must not pick up a passenger who hails the motor vehicle from the street.</li> </ol>		
<b>D. Other Requirements</b>			
Liquor Control and Licensing Act Cannabis Control and Licensing Act	The licensee must ensure passenger directed vehicles under their licence are operated at all times in compliance with the <i>Liquor Control and Licensing Act</i> and the <i>Cannabis Control and Licensing Act</i> .		
Transfer of a Licence	This special authorization licence may not be assigned or transferred except with the approval of the Board pursuant to section 30 of the <i>Passenger Transportation Act</i> .		

**Eagle Transit Ltd.**

**Eagle Transit, Eagle Cabs, Island Transit, NH Connections Haida Gwaii**

**Appendix 2: Supplementary Terms & Conditions (PDVA)**

Supplementary Terms & Conditions Respecting Taxi & Other PDVA Apps, effective September 25, 2019, apply to vehicles with an app that is used for dispatch but not payment processing.

**Appendix 3: Data Requirements (PDVA)**

Data Requirements, effective September 3, 2019, are applicable.