

AUSTRALIA / JUDGMENT

Troy v Transport for NSW

[2026] NSWCATOD 129**COURT**

Civil and Administrative Tribunal

DECIDED

25 September 2026

BEFORE

L Bryant, Senior Member

CASE / FILE NUMBER

2026/00250156

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Civil and Administrative Tribunal New South Wales

Medium Neutral Citation: Troy v Transport for NSW [2026] NSWCATOD 129**Hearing dates:** 14 September 2026**Date of orders:** 25 September 2026**Decision date:** 25 September 2026**Jurisdiction:** Occupational Division**Before:** L Bryant, Senior Member**Decision:** The decision under review is affirmed.**Catchwords:** ADMINISTRATIVE REVIEW – bus driver authority – driving offences – whether of good repute and fit and proper person to be the driver of a public passenger vehicle**Legislation Cited:** Administrative Decisions Review Act 1997
Civil and Administrative Tribunal Act 2013
Crimes (Sentencing and Procedure) Act 1999
Passenger Transport Act 1990**Cases Cited:** Director General, Transport NSW v AIC (GD) [2011] NSWADTAP 65
Kanj v Transport for NSW [2024] NSWCATOD 180
Lal v Director-General, Department of Transport [2001] NSWADT 74
Minister for Immigration and Ethnic Affairs v Pochi (1980) 44 FLR 41
Power v Transport for New South Wales [2021] NSWCATOD 225
Regan v Transport for NSW [2026] NSWCATOD 100
Saadih v Director-General, Department of Transport [1999] NSWADT 68
Shi v Migration Agents Registration Authority [2008] 235 CLR 286
Symons v Transport for NSW [2020] NSWCATOD 163
YG and GG v Minister for Community Services [2002] NSWCA 247**Texts Cited:** None

Category:	Principal judgment
Parties:	Brian Troy (Applicant) Transport for NSW (Respondent)
Representation:	Self-Represented (Applicant) Makinson d'Apice (Respondent)
File Number(s):	2026/00250156
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REASONS FOR DECISION

Introduction

The applicant, Mr Brian Troy, seeks his bus driver authority (authority) to be renewed.

Transport for NSW, the respondent, refused the authority because the respondent cannot attest that the applicant is a fit and proper person, or a person of good repute, to be authorised.

The respondent made the refusal decision in early May 2026 and at the applicant's request conducted an internal review. On 20 May 2026 the respondent's internal review affirmed the original decision.

The applicant seeks review of the decision to refuse the authority.

The issues for the Tribunal to consider are:

Whether the applicant is of good repute and a fit and proper person to be the driver of a public passenger vehicle.

Whether the applicant has sufficient responsibility and aptitude to drive a public passenger vehicle in accordance with requisite service conditions, law and custom.

For the reasons that follow, I am satisfied that the correct and preferable decision is to affirm the respondent's decision.

Material before the Tribunal

The applicant provided the application for review, a reference from his employer, his father's death certificate and his wife's discharge summary from hospital.

The respondent provided a bundle of material filed pursuant to s 58 of the Administrative Decisions Review Act 1997 (ADR Act), and written submissions to the applicant and Tribunal.

Both parties made oral submissions at the hearing.

No witnesses were required for cross examination at the hearing.

Applicant's case

The applicant submits that his authority should be renewed as he is a bus driver with 25 years of experience and a reliable safety record, and there were mitigating factors due to his personal circumstances for some of the recent traffic offences.

Respondent's case

The respondent contends the correct and preferable decision is to refuse the applicant's authority as he is not fit and proper, of good repute, and of sufficient aptitude and responsibility for the purposes of the Passenger Transport Act 1990 (PT Act) due to his traffic record.

Role of the Tribunal

The Tribunal has jurisdiction to review an administratively reviewable decision: s 55, ADR Act. Section 52(1) of the PT Act provides that a person may apply to the Tribunal for an administrative review under the ADR Act for a decision of the respondent refusing to grant an authority to the person.

The role of the Tribunal is to decide whether the decision under administrative review is the correct and preferable decision: ADR Act, s 63(1). In determining this question, the Tribunal is to have regard to the material before it, including any relevant factual material and any applicable written or unwritten law. The Tribunal may exercise all functions conferred or imposed by any relevant legislation on the administrator who made the decision: ADR Act, s 63(2).

The Tribunal is not restricted to a consideration of the material that was before the decision-maker but may have regard to any relevant material before it at the time of the review: *Shi v Migration Agents Registration Authority* [2008] 235 CLR 286. Under s 38(2) of the Civil and Administrative Tribunal Act 2013 the Tribunal is not bound by the rules of evidence and may inquire into and inform itself on any matter in such manner as it thinks fit, subject to the rules of natural justice.

The Tribunal is required to base its findings of fact on logically probative material: *Minister for Immigration and Ethnic Affairs v Pochi* (1980) 44 FLR 41 at [24] and [25] (per Deane J).

The time at which the correct and preferable decision is determined is when the Tribunal makes its decision: *YG and GG v Minister for Community Services* [2002] NSWCA 247 at [25].

Legislation

The objects of the PT Act are set out in s 4 and include:

- (a) To require the accreditation or authorisation, by Transport for NSW, of the operators of and drivers involved in public passenger services (other than ferry services); and

...

- (e) to encourage public passenger services that meet the reasonable expectations of the community for safe, reliable and efficient passenger transport services.

Subsection 11(1) in Division 2 of the PT Act provides that it is an offence to drive a public passenger vehicle without an authority and subsection 11(2) creates eligibility criteria for an authority as follows:

11 Authorities

- (1) A person who drives a public passenger vehicle (other than a ferry) is guilty of an offence unless the person is the holder of an appropriate authority under this Division.

Maximum penalty—100 penalty units.

- (2) The purpose of an authority under this Division is to attest—
 - (a) that the authorised person is considered to be of good repute and in all other respects a fit and proper person to be the driver of a public passenger vehicle, and
 - (b) that the authorised person is considered to have sufficient responsibility and aptitude to drive the vehicle or vehicles to which the authority relates—
 - (i) in accordance with the conditions under which a public passenger service is operated, and
 - (ii) in accordance with law and custom.

Consideration

The applicant's driving record contained in the s 58 Bundle shows that:

He first obtained a driver's licence on 21 October 1989 and a heavy vehicle licence on 16 October 2002.

In the 36 year period between October 1989 to December 2025, he has been fined 17 times, primarily for speeding, traffic light offences, and disobey road sign offences.

In the same 36-year period, his driver's licence has been:

cancelled for defaulting on the payment of fines on 1 occasion,

suspended for defaulting on the payment of fines on 4 occasions.

The particular offences which were of concern to the respondent were listed in the internal review decision as follows:

Since 9 May 2023, you had incurred five (5) traffic-related offences:

On 9 May 2023, you were infringed for the offence of 'Not stop at red arrow — camera detected'.

On 18 July 2023, you were infringed for the offence of 'Exceed speed by not more than 10 km/h whilst driving a motor vehicle — camera detected — school zone'.

On 29 October 2024, you were infringed for the offence of 'Exceed speed by not more than 10 km/h whilst driving a coach or heavy vehicle — camera detected — school zone'.

On 19 November 2025, you were infringed for the offence of 'Exceed speed by not more than 10 km/h whilst driving a coach or heavy vehicle — camera detected — school zone'.

On 12 December 2025, you were infringed for the offence of 'Exceed speed by not more than 10 km/h whilst driving a coach or heavy vehicle — camera detected — school zone'.

It is also noted that you have been issued with SIX (6) demerit points warning letters — 11/08/2023, 10/10/2023, 20/10/2023, 27/01/2025, 7/01/2026 and 9/03/2026.

There is no dispute that the offences occurred. The question is whether the applicant is suitable to be authorised to be the driver of a public passenger vehicle as a result.

Issue 1: Is the applicant of good repute and a fit and proper person to be to be the driver of a public passenger vehicle?

In *Director General, Transport NSW v AIC (GD)* [2011] NSWADTAP 65 the Appeal Panel stated at [12]:

“The first point to note is the use of the word 'attest'. The primary meaning of this word is 'to bear witness to; certify; declare to be correct, true or genuine; declare to the truth of, in words or writing: especially in an official capacity' (Macquarie Dictionary, 4th ed. 2005). The Parliament, in using this word, seeks, we consider, to emphasise the idea that the conferral of an authority involves a declaration of public trust. While this is true of all licensing, the word gives special emphasis to it in the present context.”

In *Saadieh v Director General, Department of Transport* [1999] NSWADT 68 (Saadieh) the Tribunal considered the expression "of good repute and in all other respects a fit and proper person" to obtain an authority in the context of the PT Act, observing that there are a number of factors to be considered (at [17]-[18]) including:

“• the nature, seriousness and frequency of any criminal offences for which the applicant has been arrested or convicted;

- the nature, seriousness and frequency of any complaints made against the applicant;
 - the applicant's driving record;
 - the applicant's reputation in the community; and
 - the likelihood that the applicant will re-offend, be the subject of further complaints or commit further traffic offences.
18. In assessing the last factor, several considerations are relevant. These include: the length of time since the offence/s were committed or the complaint/s made; the circumstances in which those offences or complaints occurred or are alleged to have occurred; whether the

applicant admits responsibility for the offences or complaints and shows genuine remorse; the efforts the applicant has made to rehabilitate himself or herself during that time and; any change in the applicant's circumstances such as increased support from friends, family or professional service providers."

The approach in Saadieh has been widely adopted by the Tribunal when considering authorities under the PT Act, including for bus driving (see for example *Symons v Transport for NSW* [2020] NSWCATOD 163, *Kanj v Transport for NSW* [2024] NSWCATOD 180, *Regan v Transport for NSW* [2026] NSWCATOD 100). I consider that the principles in Saadieh are also applicable in this matter.

The only factors from Saadieh that are relevant in this administrative review are the applicant's driving record, the applicant's reputation in the community, and the likelihood that the applicant will commit further traffic offences.

The applicant's driving record

As the internal review decision notes, since 9 May 2023, the applicant incurred five traffic-related offences. This includes one 'not stop at red arrow' offence and four exceeding the speed limit in a school zone offences – one while driving a motor vehicle, and three while driving a coach or heavy vehicle. These offences occurred after the respondent issued the applicant a formal warning letter on 5 May 2023 in relation to his traffic record. In addition, the applicant received six demerit point warning letters since 11 August 2023. As the respondent pointed out, some of the offences on the applicant's overall traffic record are more objectively serious, including: a negligent driving offence in 1992, an offence of exceed speed by more than 30 kilometres while driving a motor vehicle in 1995, a mid-range PCA offence in 2006 (which was found to be proved but dismissed by the Local Court under section 10 of the Crimes (Sentencing and Procedure) Act 1999), and an offence of exceed speed by more than 30 kilometres while driving a motor vehicle in 2022.

The respondent's case is not that each offence was extreme, rather there has been a pattern of behaviour over time. This was evident in 2023 when the applicant sought to renew his authority and the respondent required written submissions to support his renewal because of concerns about his traffic offences at that time, which occurred in 2020 and 2021. The respondent also issued a warning letter which put the applicant on notice that the respondent was concerned about the offences and that his authority would be in jeopardy if he did not reform.

Notwithstanding this, the conduct continued. I agree with the respondent that the applicant's offences in a school zone are more objectively serious. School zones exist to protect children who are vulnerable because they do not have the requisite road sense by ensuring that drivers slow down in the interests of their safety. This makes it even more important that heavy vehicle drivers slow down, as they are less able to easily stop.

The applicant submitted that his record did not disclose any danger to the public. The applicant explained that in all his time driving a bus, during which he has carried “millions” of people, there have only been a handful of minor injuries to passengers. The applicant recounted three such incidents:

The first was 10 to 15 years ago, when an elderly lady slipped when he turned a corner more quickly than he should have, and she “banged” her arm and was “a bit sore”. The applicant notified his employer of this incident.

The second was 12 to 14 years ago when he started moving the bus before a male passenger had sat down, who bumped his knee and was “quite irate” about it. The applicant didn’t notify his employer of this incident.

The third was in 2025, when a car cut in front of the bus, which meant the applicant had to hit the brakes and two elderly ladies fell out of their seats. The applicant called an ambulance and police attended. The ladies suffered minor injuries and the applicant was found not to be at fault.

Apart from the first and second of these incidents, the applicant pointed out that there is no record of any person being injured through his conduct. The applicant also raised his late father’s illness and hospitalisations from September 2025 to January 2026 and his wife’s health challenges earlier in 2025, that caused him significant stress. The applicant contended that his driving record during that period reflects the stress he was experiencing and he obtained counselling support through his employer to help him to manage this.

I accept the applicant as a frank and honest person, who freely disclosed the three incidents above at [29], that were not otherwise known to the Tribunal or the respondent.

The respondent submitted that any stress experienced by the applicant as a result of his father and wife being unwell in 2025 does not explain his offending before that time, including his offences in 2023 and 2024. Further, there is no evidence before the Tribunal that acute stress affected the applicant’s driving behaviour in 2025, but if that is the case, the Tribunal could not have any comfort that the errant behaviour will not recur during subsequent stressful periods in the applicant’s life. The respondent submitted that if the applicant was not fit to drive because of his stress levels, alternatives were open to the applicant to driving a bus, including taking sick leave or making inquiries of his employer about alternate duties, but there is no evidence this occurred. If the applicant was experiencing stress due to circumstances in his personal life that affected his ability to drive safely then he should not have been on the road. In my opinion, these submissions from the respondent are cogent and persuasive.

I note that at least three of the more recent infringements occurred when the applicant was driving a bus or heavy vehicle. These were speeding offences in a school zone and are matters of concern for the safety of children, as pointed out by the respondent. The respondent’s conduct demonstrates reckless and irresponsible behaviour while driving a motor vehicle, placing his safety and wellbeing, his passengers, and other road users at risk. The applicant’s driving record is very poor and does not seem to have improved over time. The overall impression his record

gives is of an inappropriately careless or lax attitude and a failure to take care to obey traffic laws.

The applicant's reputation in the community

The applicant made submissions to the effect that he is a veteran bus driver in the community who is both respected and good at his job. No evidence was provided in support of this submission.

The applicant provided a recent reference from his employer. The letter confirmed his long service as a bus driver but did not offer any observations about the applicant's character and reputation. The letter stated that the applicant has had two "at fault accidents" since 2018. No further details were provided about this.

The applicant submitted that the stress caused by his authority being refused led him to seek medical attention. This turned out to be fortunate because while he was returning from hospital, he recognised that a dangerous situation was unfolding and ran 30 metres to pull a passenger out of the way of an oncoming bus, whom the driver had not seen. I accept the applicant's account of this matter, and I am impressed by the applicant's selfless act, as a by-stander on this occasion, to intervene and put himself at risk in order to save another member of the community from harm. This demonstrates a capacity for the applicant to be mindful of the safety of others in the community.

The likelihood that the applicant will commit further traffic offences

The applicant informed the tribunal that he had been required by his employer to retrain three times over his bus driving career to improve his driving abilities, and the last time was about two years ago. The applicant was of the view that alternate options of this nature were more appropriate than a refusal of his authority and asked the Tribunal to consider whether a probationary period or conditional authority would be appropriate.

The respondent submitted that there is no evidence that the applicant has undertaken remedial action, for example, completion of a traffic offender's program or an offensive driving course. The respondent observed that the applicant's retraining two years ago appears to have been ineffective, due to the applicant's offending behaviour since that time.

The applicant is a married man aged 56. There was no evidence of any non-traffic offences, history of drug or alcohol abuse, or criminal associations. There was no evidence of complaints about his behaviour towards passengers or other persons. Although the applicant has clearly found the cancellation of his authority and the Tribunal process stressful and difficult, he did not express remorse for the offences and did not appear willing to take responsibility for his conduct. The applicant said that his driving record was "not perfect". In my opinion, that is a gross understatement. I have already observed earlier in these reasons that the applicant's driving record is very poor (see [33]). Although there is no evidence of this, I accept that the applicant has sought counselling and medical treatment for his stress, which is in his favour.

The applicant and his wife are heavily reliant on his income as a bus driver. However, questions of possible hardship to an applicant cannot be taken into account in determining whether the respondent has made the correct and preferable decision: *Power v Transport for New South Wales* [2021] NSWCATOD 225 at [48], citing *Lal v Director-General, Department of Transport* [2001] NSWADT 74, [47].

The applicant pointed to his overall driving record as being one of safety over a long period of time, in what is a complex operating environment. A frank assessment of the applicant's driving record over time shows a recurrent disregard for traffic laws and a failure to reform his conduct to the extent that it is not possible to attest that he is a fit and proper person to hold a bus driver authority at this time.

I find that it is not possible to attest that the applicant is of good repute and a fit and proper person to be to be the driver of a public passenger vehicle at this time.

A sustained period of offence free driving would need to be evident before such an attestation could be given.

Issue 2: Does the applicant have sufficient responsibility and aptitude to drive a public passenger vehicle in accordance with requisite service conditions, law and custom?

The respondent only made the two brief submissions in relation to this issue as follows.

The applicant's traffic history provides an overall picture of his:

inability to operate a motor vehicle within the confines of the law, or

his disregard for the law and reckless attitude towards the safety of others.

The applicant's traffic record reveals that “most” or “almost all” of the traffic offences proceeded to “enforcement order”, as indicated by the letters “EO” beside entries on his record. This calls into question the applicant's willingness to take responsibility for his own actions and take such matters seriously.

Although the applicant opposed these submissions, there is some evidence in support of the submission at [44](1)(b) (see [33] above). There is also some evidence in support of the submission at [44](2), as eight of the applicant's 17 fines led to enforcement action and his licence has been suspended (albeit only very briefly) for defaulting on the payment of fines on 4 occasions. However, this is not “most”, let alone “almost all” of the applicant's offences, as submitted by the respondent.

I note that the respondent did not provide any evidence of any “conditions under which a public passenger service is operated” (as referenced in s 11(2)(b)(i) of the PT Act).

In any event, following the finding in relation to Issue 1 at [42], it is not necessary to make a finding one way or the other in relation to Issue 2.

Conclusion

The decision under review is affirmed.

Accordingly, it is unnecessary for me to further consider the applicant's submissions in relation to a probationary or conditional authority.

Orders

The decision under review is affirmed.

I hereby certify that this is a true and accurate record of the reasons for decision of the Civil and Administrative Tribunal of New South Wales.

Registrar

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