

Decision and Reasons for Decision

Citation: C.P.T Coops Pty Ltd and National Heavy Vehicle Regulator [2026] QICmr 127 (22 July 2026)

Application Number: 318912

Applicant: C.P.T. Coops Pty Ltd (ABN 132 076 558)

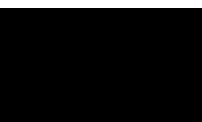
Respondent: National Heavy Vehicle Regulator

Decision Date: 22 July 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - applicant alleges missing documents - whether agency has taken all reasonable steps to locate responsive documents - whether access may be refused on the grounds that documents are nonexistent - sections 47(3)(e) and 52(1)(a) of the *Right to Information Act 2009* (Qld)

DECISION

1. I vary¹ the reviewable decision² of National Heavy Vehicle Regulator (**NHVR**) and find that access to the requested documents may be refused under sections 47(3)(e) and 52(1)(a) of the *Right to Information Act 2009* (Qld) (**RTI Act**) on the basis that they are nonexistent.
2. This means that no further information is to be released to the applicant.
3. My reasons for the decision follow.



R Moss
Principal Review Officer

Date: 22 July 2026

¹ Under section 110(1)(b) of the *Right to Information Act 2009* (Qld).

² See paragraph 7 below.

REASONS FOR DECISION

Summary

4. The applicant applied³ to NHVR under the RTI Act for access to certain documents in connection with a specific truck, including (relevantly) *'all body cam/inspection footage and audio from all inspections'* of the truck.
5. NHVR located 325 responsive documents and decided⁴ to give the applicant full access to 107 documents, partial access to 29 documents, and to refuse access in full to 189 documents. Access was refused on exemption and public interest grounds, and also on the basis that some information was irrelevant to the scope of the application.
6. The applicant applied⁵ to the Office of the Information Commissioner (**OIC**) for external review of NHVR's decision.

Reviewable decision

7. The decision under review is the decision of NHVR dated 2 September 2025.

Evidence considered

8. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes). I have taken account of the applicant's submissions⁶ to the extent that they are relevant to the issue for determination in this review. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information,⁷ and in doing so, have acted in accordance with section 58(1) of the HR Act.⁸

Issue for determination

9. During the course of the review, NHVR located two body worn camera (**BWC**) recordings of the inspection of the truck that took place in New South Wales on 9 October 2024. NHVR gave the applicant access to the recordings subject to the

³ Application received on 14 July 2025.

⁴ Decision dated 2 September 2025.

⁵ On 15 September 2025.

⁶ In the external review application and in emails on 21 April 2026 and 24 April 2026.

⁷ Section 21 of the HR Act.

⁸ All participants in this review are corporations or an agency, such that, at face value it may not appear necessary to consider the application of the HR Act, which only affords human rights to individuals in Queensland. However, Kingham J in *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors* [2020] QLC 33 at [90] indicated that where section 58(1) of the HR Act applies, there need be no mover to raise human rights issues because that section requires the relevant public entity to properly consider engaged human rights and to not act or make a decision that is not compatible with human rights. In any event, in observing and applying the law prescribed in the RTI Act, an RTI decision maker will be *'respecting and acting compatibly with'* applicable human rights as stated in the HR Act (*XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) at [573]. This approach to the Victorian analogues of the HR Act and RTI Act has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23]. Having taken this approach in this review, I have observed relevant rights under section 58(1) of the HR Act to the extent that it is necessary to do so.

redaction of some third party personal information.⁹ However, the applicant contends that additional BWC recordings, relating to inspections of the truck carried out in Queensland on 10 July 2024 and 1 August 2024, should exist.

10. The only issue for OIC’s determination is whether NHVR has taken all reasonable steps to locate all BWC recordings that fall within the terms of the access application.

Relevant law

11. The RTI Act permits an agency to refuse access to information where the requested information is non-existent or unlocatable.¹⁰ A document will be nonexistent if there are reasonable grounds to be satisfied it does not exist.¹¹ A document will be unlocatable if it has been or should be in the agency’s possession and all reasonable steps have been taken to find the document, but it cannot be found.¹²
12. To be satisfied that a document does not exist, the Information Commissioner has previously identified a number of key factors to consider, including the agency’s structure, its recordkeeping practices and procedures and the nature and age of requested documents.¹³ After considering relevant factors, a decision-maker may conclude that a particular document was not created because, for example the agency’s processes do not require creation of that specific document. In such instances, it is not necessary for the agency to search for the document, but sufficient that the circumstances to account for the nonexistence are adequately explained by the agency. If searches are relied on to justify a decision that the documents do not exist, all *reasonable* steps must be taken to locate the documents.¹⁴ What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances.
13. The Information Commissioner’s external review functions include investigating and reviewing whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.¹⁵ On an external review, the agency or Minister who made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the applicant. However, where the issue of missing documents is raised, the applicant bears a practical onus of demonstrating that the agency has not

⁹ On 10 April 2026.

¹⁰ Sections 47(3)(e) and 52(1) of the RTI Act.

¹¹ Section 52(1)(a) of the RTI Act.

¹² Section 52(1)(b) of the RTI Act.

¹³ These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) (**Pryor**) at [19], which adopted the Information Commissioner’s comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) at [37]–[38] (**PDE**). These factors were more recently considered in *B50 and Department of Justice and Attorney-General* [2024] QICmr 33 (7 August 2024) at [15], *T12 and Queensland Police Service* [2024] QICmr 8 (20 February 2024) [12], and *G43 and Office of the Director of Public Prosecutions* [2023] QICmr 50 (12 September 2023) [19].

¹⁴ In *Webb v Information Commissioner* [2021] QCATA 116 (**Webb**) at [6], McGill J observed that this does not extend to all ‘possible’ steps.

¹⁵ Section 137(2) of the IP Act. The Information Commissioner also has power under section 115 of the IP Act to require additional searches to be conducted during an external review. The Queensland Civil and Administrative Tribunal confirmed in *Webb* at [6] that this ‘does not contemplate that [the Information Commissioner] will in some way check an agency’s records for relevant documents’ and that, ultimately, the Information Commissioner is dependent on the agency’s officers to do the actual searching for relevant documents.

discharged its reasonable search obligations.¹⁶ Suspicion and mere assertion about the possible existence of additional documents will not satisfy this onus.¹⁷

Submissions

14. In its initial decision, NHVR stated that it had searched its *'email system, saved files, Microsoft Teams [and] Outlook Calendar'* in an effort to locate responsive documents. No BWC recordings were located as a result of these searches.
15. At the commencement of the external review, OIC asked NHVR to address the applicant's concerns about missing BWC footage and to provide copies of its search records. In the event that NHVR considered that further searches for BWC footage were required, it was asked to undertake those searches and to provide OIC with a copy of any located documents.¹⁸
16. In its response,¹⁹ NHVR provided copies of six RTI search requests that were distributed by its RTI unit to various officers/business units within NHVR at the time of processing the access application. These requests included a specific request to search for any BWC footage taken of inspections of the truck. All searches failed to locate any BWC footage. In addition, NHVR stated that operational officers from Operations Queensland (Mackay) had advised that it was not NHVR's policy to use BWC to record heavy vehicle inspections.
17. However, having regard to OIC's request and the applicant's assertion that BWC recordings of inspections existed, NHVR conducted another round of searches and made inquiries with other officers in an effort to locate such recordings. As a result, the BWC recordings made in New South Wales and referred to in paragraph 9 above were located and released (in part) to the applicant.
18. In response to OIC's subsequent preliminary view to the applicant that NHVR had taken all reasonable steps to locate any responsive BWC recordings,²⁰ the applicant complained that NHVR had not proceeded in a *'transparent and reasonable manner'* and that it was not prepared to accept NHVR's *'word'* that there were no recordings from inspections of the truck in Queensland on 10 July 2024 and 1 August 2024. The applicant required OIC to indicate whether or not OIC was satisfied about a number of aspects of NHVR's searches and inquiries, including whether *'the Queensland branch of NHVR has been forthcoming with information to the same extent as the NSW branch'*.²¹ The applicant reiterated its concerns about NHVR's transparency in its subsequent submission.²²

¹⁶ See *Mewburn and Department Local Government, Community Recovery Resilience* [2014] QICmr 43 (31 October 2014) [13].

¹⁷ *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) [23]; *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) [36]; *Y44 and T99 and Office of the Public Guardian* [2019] QICmr 62 (20 December 2019) [38].

¹⁸ Letter from OIC dated 23 September 2025.

¹⁹ Letter and supporting documents provided on 8 October 2025.

²⁰ Letter from OIC dated 31 March 2026.

²¹ Applicant's email of 21 April 2026.

²² Applicant's email of 24 April 2026.

...As we expressed in Our Letter, we are not comfortable accepting that the NHVR has been transparent about the existence of body worn camera recordings that were taken from inspections of the Hino Truck carried out in the State of Queensland. The two body worn camera recordings handed over by NHVR are both from inspections that took place in the State of New South Wales.

...

Findings

19. The search certifications provided by the relevant NHVR officers who undertook searches for responsive documents both during the processing of the access application, and on external review, may be summarised as follows:
 - Principal Safety and Compliance Officer – Central Sector/Northern Region (Qld)
 - Acting Principal Safety and Compliance Officer (Carrington, NSW)
 - Safety & Compliance Officer – On Roads Compliance division (Mackay, Qld)
 - Business Support Officer on behalf of Director (Operations) – Northern Region (Qld)
 - Manager – Legal Services
 - Manager (Harmonisation) – Operations/On Road Support; and
 - Intelligence officer – Intelligence unit.
20. The searches undertaken consisted of searches of NHVR's electronic RCMS system;²³ email system; legal files; TEAMS and calendar; document folders; and Evidence.com. Keyword search terms included the applicant's name/name variations/complaint; Hino truck; and vehicle registration.
21. Having regard to these searches and inquiries, I am satisfied that NHVR has taken all reasonable steps in an effort to locate any further BWC recordings that fall within the terms of the access application. On the material before OIC, I am unable to identify any further searches or inquiries that it would be reasonable to ask NHVR to undertake, and I note that the applicant has suggested none. I acknowledge that the applicant is concerned that NHVR did not locate any BWC recordings on its initial search for documents, and this has given rise to a suspicion in the applicant about whether NHVR has been transparent about the existence of any additional BWC recordings relating to Queensland inspections.
22. In response, I note, firstly, the assertion by NHVR's Queensland-based officers that it is not NHVR's policy to use BWC to record heavy vehicle inspections and that the existence of such recordings for the NSW inspections is regarded as unusual. Secondly, and as the applicant was advised during the course of the review, it is not uncommon, in OIC's experience, for agencies to locate additional relevant information following further (and better directed) searches and inquiries on external review. But in any event, as noted at paragraph 13 above, suspicion and mere assertion by an applicant about the possible existence of additional documents will not satisfy the onus that is upon the applicant to demonstrate that the agency has not discharged its reasonable search obligations.

²³ Regulatory Compliance Mobility Solution system (for on-road compliance and enforcement).

23. In terms of the applicant's concerns about the existence of recordings relating specifically to inspections of the truck conducted in Queensland, the searches set out in paragraph 19 above indicate that searches have been carried out by a number of Queensland divisions of NHVR that I consider should reasonably have been expected to locate responsive BWC recordings (including in Evidence.com) were any to exist.
24. In summary, for the reasons set out above, I am satisfied that NHVR has discharged its reasonable search obligations under the RTI Act and has taken all reasonable steps in an effort to locate BWC recordings responding to the terms of the applicant's access request. I find that access to any additional responsive documents may be refused under the RTI Act on the grounds that they are nonexistent.

Conclusion

25. The above are the reasons for my decision set out at paragraph 1 above.
26. I have made this decision as a delegate of the Information Commissioner under section 145 of the RTI Act.

--End--