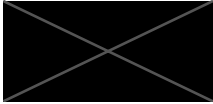




Department of
**Primary Industries and
Regional Development**

Our reference: FOI2025-008
Enquiries: foi@dpird.wa.gov.au

Ms Hanyu Liu



e o una5 gmail.com

Date: 30 May 2025

Dear Hanyu Liu

NOTICE OF DECISION - FREEDOM OF INFORMATION APPLICATION

I refer to your access application (Ref. FOI2025-008] lodged under the *Freedom of Information Act 1992* (WA) (FOI Act) with the Department of Primary Industries and Regional Development (DPIRD) on 7 April 2025.

The enclosed Notice of Decision outlines DPIRD's decision with respect to the documents requested in your application.

If you are not satisfied with DPIRD's decision on access you have a right to apply for an internal review in accordance with the process outlined in this notice.

Should you have any queries in relation to this matter please do not hesitate to contact me on 0417 970 302, or alternatively, via email at foi@dpird.wa.gov.au

Yours sincerely

CKuzimski

Clare Kuzimski
Information Release and Privacy Officer
Corporate Services
Department of Primary Industries and Regional Development

Attachment: Notice of Decision

NOTICE OF DECISION
UNDER SECTION 30
FREEDOM OF INFORMATION ACT 1992 (WA) (FOI Act)

APPLICANT Ms Hanyu Liu

DECISION MAKER Nicole Xanthis, Information Release and Privacy Coordinator
Department of Primary Industries and Regional Development

DELEGATION I have been appointed by the Director General as a decision maker for DPIRD pursuant to s.100 of the FOI Act.

DATE 30 May 2025

DECISION For the reasons set out below, I have decided to grant full access to a copy of one document that has been created with raw data to fulfil part of your request falling within point 1.1 of the scope of your application.

I have also decided that all reasonable steps have been taken by DPIRD to find documents falling within points 1.2 and 1.3 of the scope of your application and such documents do not exist within DPIRD.¹

ACCESS APPLICATION

1. On 7 April 2025 DPIRD received your access application (Ref. FOI2025-008) under the FOI Act, requesting information regarding the activities of Designated Inspectors (DI's) in relation to animal welfare enforcement in Western Australia. Specifically:
 - 1.1 *"The number of inspections conducted by Designated Inspectors between 1 January 2022 and 5 April 2025, or the most recent available date. including the date and type of facility inspected (e.g., piggery, poultry farm, abattoir).*
 - 1.2 *Summary of inspection outcomes for the above period, including the number and nature of non-compliance incidents, severity assessments, and enforcement actions taken (e.g., warnings, infringement notices, or prosecutions).*
 - 1.3 *Any internal evaluations, reports or audits conducted regarding the capacity, number, training, or resource allocation of Designated Inspectors during this period."* **(Application)**
2. You indicated on your FOI Application form that you consent to all personal information of third parties being deleted from the requested documents.

FACTS

3. On 7 April 2025 DPIRD's Enterprise Information Management Branch (EIM) requested searches to be undertaken by DPIRD's Operations and Compliance Directorate.
4. Searches were requested to be conducted by DPIRD's Operations and Compliance Directorate on electronic databases, email accounts and files where copies of the requested documents, if they existed, would have been held or stored.
5. On 10 April 2025 DPIRD's Operations and Compliance Directorate confirmed that no documents exist that meet the scope of the application.

¹ Section 26(1)(b)(ii) of the FOI Act

6. On 1 May 2025, the Information Release and Privacy Officer informed you the FOI Act gives the general public the right to access documents, not to address questions. It is a requirement of the applicant to identify the documents you are seeking access too. However, to assist you DPIRD liaised with DPIRD's Operations and Compliance Directorate to make enquiries in regard to your requested information.
7. You were advised that under point 1.1 of your scope that there is not an existing single document held by DPIRD that provides the requested information. Over the time period specified, DPIRD has undertaken a number of inspections of intensive production places.
8. For point 1.3 there has been no internal evaluations, reports or audits conducted for the requested information held by DPIRD.
9. In light of the above information provided to you, you were provided with the contact details of the Director of Regional Compliance South (Director), who offered to assist in clarifying the scope of your request and identifying relevant documents. You were also given the option to either withdraw your application and receive a refund of the \$30 application fee, or to proceed with your application following consultation with the Director.
10. I am not aware that any contact has been made by you to the Director for this assistance.
11. On 8 May 2025 you requested that your application proceed to a formal Notice of Decision.
12. On 9 May 2025 DPIRD's Enterprise Information Management Branch and DPIRD's Operations and Compliance Directorate discussed whether the raw data submitted by inspectors could be aggregated to fulfil part of your request, ultimately creating a document that would fall within the scope of your application.
13. Agencies are not obligated to produce a document to fulfill an access application if such a document does not already exist. However, DPIRD has chosen to assist you by creating a document that displays statistics of inspections carried out at every intensive production place over the last 3 years.
14. On 21 May 2025 you were emailed a request for a two-week extension of time to process your application. You agreed to the requested extension of time, thereby making the revised due date Friday 6 June 2025.

DECISION

15. I have decided to grant full access to a copy of one document (Document 1) that has been created with raw data to fulfil part of your request **[1.1]**.
 - 15.1 **Document 1** –Inspector Intensive Production facility attendance summary 2022 - 2025 (as of 11 May 2025).
16. For further interpretation and clarification of Document 1, The *Animal Welfare Act* 2002 (WA) was amended in April 2023 to create an additional category of Inspectors this category is "Designated Inspector". General Inspectors already have powers to enter a property with the owners' permission or if the inspector suspected an offence has been or

is being committed. If an inspector arrives at a property and requests access, and is granted access, the power given under the authority of a designated inspector is not required.

17. I have decided to refuse access to the documents falling within points [1.2 and 1.3] of the application on the basis that:
 - 17.1 All reasonable steps have been undertaken to find documents falling within points [1.2 and 1.3] of the scope of your Application and I am satisfied that the document/s do not exist within DPIRD.
18. The Office of the Information Commissioner has consistently emphasized that the FOI Act does not extend to the creation of new documents. [Your right under the FOI Act is to access documents, not to receive answers to questions.](#) I am of the view that DPIRD's obligation to assist you as an applicant in identifying documents has been met by providing answers to points [1.1 -1.3], creating a Document 1 that will provide some of the information you are seeking access to and providing you contact details of the Director to assist you with reframing your request.
19. DPIRD would like to extend the offer for the Director to provide you with assistance to the specific documents you are seeking access too. It is noted that the Director's availability at present is limited, however an alternative contact to assist you, is

Brad Tilley
 A/Director Regional Compliance South
 Operations and Compliance
 08 61630908
 Bradley.tilley@dpiird.wa.gov.au

Documents that do not exist

20. Section 26 of the FOI Act deals with an agency's obligations in circumstances when it is unable to locate documents sought by an applicant or when those documents do not exist. Section 26 provides:
 - (1) *The agency may advise the applicant, by written notice, that it is not possible to give access to a document if –*
 - (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency is satisfied that the document –*
 - (i) *is in the agency's possession but cannot be found; or*
 - (ii) *does not exist.*
 - (2) *For the purposes of this Act the sending of a notice under subsection (1) in relation to a document is to be regarded as a decision to refuse access to the document, and on a review or appeal under Part 4 the agency may be required to conduct further searches for the document.*
21. On previous occasions the Information Commissioner (WA) has determined that the following questions must be answered before an agency can rely on section 26. Firstly, whether there are reasonable grounds to believe that the requested document exists or should exist, and is, or should be, held by the agency. Also, where that question is answered in the affirmative, whether the agency has taken all reasonable steps to locate

the document (See *Re S and Bentley Hospital* [1996] WAICmr 62 and *Re Mallett and Edith Cowan University* [2005] WAICmr 19).

COSTS AND CHARGES

22. Your Application was validated with the payment of the \$30.00 application fee for non-personal information and no additional charges have been levied for processing your Application.

RIGHT OF REVIEW

23. If you are not satisfied with this decision, you have a right to apply for an internal review. An application for internal review must be lodged with DPIRD within 30 days after being given this written notice, and must:
- be in writing;
 - provide particulars of the decision to be reviewed; and
 - give an address in Australia.
24. There is no lodgement fee for an application for internal review nor are there any charges associated with such a request.
25. If an application for internal review is received, it will not be dealt with by the person who made the initial decision, or by any person who is subordinate to the original decision maker. The outcome for an application for internal review may result in confirmation, variation or reversal of the initial decision under review. You will be advised of the outcome within 15 days.
26. You can lodge an internal review request by email at foi@dpird.wa.gov.au or post, addressed to:

Freedom of Information
Department of Primary Industries and Regional Development
Locked Bag 4
Bentley Delivery Centre WA 6983

Feedback on our service

27. If you wish to provide any comments or feedback on the service provided by the department in relation to your FOI Application, please email foi@dpird.wa.gov.au or I can be contacted on 0436 812 597.

Yours sincerely



Nicole Xanthis
Information Release and Privacy Coordinator
Corporate Services
Department of Primary Industries and Regional Development

Attachment:
Document released under FOI