

OFFICIAL



Department of
Primary Industries and
Regional Development

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

Ms Hanyu Liu



Sent via email: helloluna520@gmail.com

Date: 8 July 2025

Dear Hanyu Liu,

INTERNAL REVIEW NOTICE OF DECISION

I refer to your internal review application lodged under the *Freedom of Information Act 1992* (WA) with the Department of Primary Industries and Regional Development (DPIRD) on 16 June 2025, in relation to FOI application FOI2025-008.

As the A/Manager Enterprise Information Management, I have been asked to undertake an independent internal review of the decision of Ms Nicole Xanthis, Information Release and Privacy Coordinator dated 30 May 2025.

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

Should you have any queries in relation to this matter please do not hesitate to contact me via foi@dpird.wa.gov.au.

Yours sincerely,

Ms Kristy Rakitich
A/Manager Enterprise Information Management
Information Services – Corporate Services
Department of Primary Industries and Regional Development

Attachment: Internal Review Notice of Decision

FREEDOM OF INFORMATION ACT 1992 (WA) (FOI Act)**INTERNAL REVIEW NOTICE OF DECISION****UNDER SECTION 43**

APPLICANT	Ms Hanyu Liu
DECISION MAKER	Ms Kristy Rakitich A/Manager Enterprise Information Management Information Services – Corporate Services Department of Primary Industries and Regional Development (DPIRD)
DELEGATION	I have been appointed by the Director General as a decision maker for DPIRD pursuant to s.100 of the FOI Act.
DATE	8 July 2025
DECISION	For the reasons set out below, I have decided to confirm the original decision made by Ms Nicole Xanthis, Information Release and Privacy Coordinator on 30 May 2025, to grant full access to a copy of one document (created with raw data) to fulfil part of your request falling within point 1.1 of the scope of your application. I am of the view that all reasonable steps have been taken 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.

BACKGROUND

1. On 7 April 2025, DPIRD received your initial application under the FOI Act (Ref FOI2025-008), requesting information regarding the activities of Designated Inspectors 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 the FOI application form your consent to all personal information of third parties being deleted from the requested documents.
3. On 1 May 2025, the Information Release and Privacy Officer informed you the FOI Act gives the general public the right to access documents held by a government agency and is not an avenue to obtain answers to questions. Per section 12 of the FOI Act, the onus is on the applicant to give enough information to enable the requested documents to be identified.
4. To assist in identifying specific documents, the Information Release & Privacy team liaised with the agency's Operations and Compliance Directorate, being the business

area that would likely hold documents containing the information you are seeking, should they exist.

5. Based off these initial enquiries, you were advised that under point 1.1 and 1.2 of your scope, a single document that provides the requested information does not exist within the agency. However, the Operations and Compliance Directorate confirmed that over the period specified on your application, DPIRD had undertaken numerous inspections of intensive production facilities.
6. You were also advised regarding point 1.3 of your scope, there have been no internal evaluations, reports or audits conducted regarding Designated Inspectors during the period specified and therefore, no documents exist to address this part of your request.
7. You were provided a Notice of Decision on 30 May 2025 to grant full access to a copy of 1 document, that had been created as a courtesy, with raw data to fulfil part of point 1.1 of the scope of your application (**Original Decision**). As the other documents do not exist within the agency, access was refused pursuant to section 26 of the FOI Act.

SCOPE OF INTERNAL REVIEW REQUEST

8. On 16 June 2025, DPIRD received your request for an internal review of the Original Decision. You sought review of the decision on the following grounds:
 - 8.1 The provided document (Document 1: Facility Inspection Summary) is vague, generic, and lacks substantive inspection results or enforcement outcomes.
 - 8.2 The claim that no inspection outcome data exists (section 26 refusal) appears questionable and merits re-examination.
 - 8.3 The claim that no internal performance reviews or audits exist (section 26 refusal) similarly requires confirmation.
9. Under section 43(2) of the FOI Act, an internal review decision is due 15 calendar days after the request was lodged, unless otherwise agreed between the applicant and the agency.
10. On 30 June 2025, the agency obtained your consent for an extension of time to finalise the internal review decision by 8 July 2025.

CONSIDERATIONS

11. The purpose of this review is to consider whether your right to access documents (or parts of documents) pursuant to the FOI Act has been met by DPIRD.
12. An internal review is to be dealt with as it were an access application under the provisions of Divisions 2, 3 and 4 of the FOI Act and is also aimed to:
 - 12.1 Ensure that transparency and accountability have been met in handling the application.
 - 12.2 Review the Original Decision and confirm whether all reasonable processes were undertaken.
 - 12.3 Address the points raised in the internal review request and in the case of a section 26 refusal, determine whether all reasonable steps have been taken to locate the requested documents and outline the steps undertaken in completing the review.

13. The former Information Commissioner has said that 'the adequacy of an agency's efforts to locate documents are to be judged by having regard to what is reasonable in the circumstances.'¹ In light of this position and considering the points raised in your internal review request, I consulted with the Operations and Compliance Directorate to understand their processes in conducting inspections, what information is recorded, where information is stored and in what format, internal reporting processes and any statutory reporting obligations, that may produce a document fulfilling your request.
14. I also considered whether amending the wording of your request would result in the discovery of documents. The former Information Commissioner said 'the extent to which the FOI Coordinator needs to look beyond the wording of the access application will depend on the circumstances of any given application. If at any stage, it is apparent that other search terms would be relevant, it is incumbent upon the agency to conduct searches using those terms for key word searches.'²
15. Based off the responses, research conducted and considering other potential search terms, I am satisfied that the documents described at point 1.1 and 1.2 of your request do not exist, other than that which was produced as a courtesy during the processing of the Original Decision.
16. In addressing the statement at 8.2, I disagree that the Original Decision claimed that no inspection outcome data exists. My enquiries in processing this review confirmed that individual reports with inspection outcomes do exist, however in my view, that is not what your initial application requested and is outside the scope of the initial request. Your application requested a summary and statistical information, and I am satisfied that an aggregated document does not exist.
17. I also considered whether any investigative outcomes were publicly available that may assist you (per section 6 of the FOI Act), however, was unable to locate any such documentation.
18. In reviewing the correspondence during the processing of the Original Decision, you were offered the opportunity to contact the Director of Regional Compliance South as a subject matter expert for the area of information you are seeking, to discuss your request and potentially obtain answers to questions you may have. This offer was further reiterated in the Original Decision. In reviewing correspondence and through my enquiries, I do not believe that you have contacted the Director to date.
19. Regarding point 1.3 and addressing 8.3, my enquiries with the Operations and Compliance Directorate confirmed that no internal performance reviews or audits have been conducted in the period specified, and therefore no documents exist. My enquiries with the Directorate revealed that Animal Welfare inspectors have a defined set of standards and training they must undertake before being appointed as authorised officers. I was advised that the Directorate's work allocation is based off a number of factors including risk, resources, intelligence, biosecurity obligations and inspectorate priorities.

INTERNAL REVIEW DECISION

20. The Original Decision provided that the following questions must be answered before an agency can rely on section 26 to refuse access to documents. 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. Secondly, where that question is answered in the affirmative, whether the agency has taken all reasonable steps to locate the document.

¹ Ross William Leighton and Shire of Kalamunda, Re [2008] WAICmr 52

² Alannah Joan Geraldine MacTiernan and Minister for Regional Development, Re [2009] WAICmr 29

21. In response to the first question, I concur that reasonable grounds exist where the requested information should be held within this agency, as stated at 8.2 and 8.3 of your internal review request. However, in conducting this review, I am satisfied that the agency has taken all reasonable steps to locate documents, and they do not exist.
22. In light of the above information, I have decided to confirm the Original Decision by Ms Nicole Xanthis, Information Release and Privacy Coordinator made on 30 May 2025, to refuse access to the requested documents, pursuant to section 26 of the FOI Act, as the documents do not exist, other than that which was created during the processing of the Application and you were provided full access.
23. I consider the agency has endeavoured to show transparency and accountability by offering direct contact details to a subject matter expert (Director) in the relevant business area to answer questions you may have, as well as created a document to fulfil part of your request, when it is not obligated to do so.³

RIGHT OF REVIEW

24. If you are not satisfied with this decision, you have a right to request an external review with the Office of the Information Commissioner. A complaint must be lodged with the Information Commissioner within 60 days after being given this written notice, and must:
 - 24.1 be in writing;
 - 24.2 have attached to it a copy of this internal review notice of decision; and
 - 24.3 give an address in Australia to which notices under the FOI Act can be sent.
25. There is no lodgement fee for an application for external review nor are there any charges associated with such a request.
26. You can lodge an external review request by post, addressed to

Office of the Information Commissioner
Albert Facey House
469 Wellington Street
PERTH WA 6000

27. Please contact the Office of the Information Commissioner on (08) 6551 7888 or by email at info@foi.wa.gov.au should you have any queries or require further information concerning your review rights.

Feedback on our service

If you wish to provide any comments or feedback on the service provided by DPIRD please email foi@dpird.wa.gov.au.

Yours sincerely,

Ms Kristy Rakitich
A/Manager, Enterprise Information Management
Corporate Services
Department of Primary Industries and Regional Development

³ Terrestrial Ecosystems and Department of Environment and Conservation, Re [2013] WAICmr 9

EXCERPT COPIES OF THE FREEDOM OF INFORMATION ACT (W.A.) 1992

Section 26 – Documents that cannot be found or do not exist, notice of

- (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.