RE: External Review Request – DPIRD FOI2025-017 – Section 26 (Reasonable Search) and Scope Construction Issues

Dear Hanyu

I acknowledge receipt of your email of 2 October 2025 to the Office of the Information Commissioner, which included four attachments.

Regards,

External Review Team
Office of the Information Commissioner I Albert Facey House, 469 Wellington Street, PERTH WA 6000
T: (08) 6551-7888 I **E:** info@oic.wa.gov.au I **W:** oic.wa.gov.au

Office of the Information Commissioner

From: Hanyu <helloluna520@gmail.com>
Sent: Thursday, 2 October 2025 11:53 PM
To: Info OIC <Info.OIC@oic.wa.gov.au>
Subject: External Review Request – DPIRD FOI2025-017 – Section 26 (Reasonable Search) and Scope Construction Issues

Some people who received this message don't often get email from helloluna520@gmail.com. Learn why this is important

Dear Information Commissioner,

Pursuant to section 65 of the Freedom of Information Act 1992 (WA), I respectfully request an external review of the internal review decision issued by the Department of Primary Industries and Regional Development (DPIRD) on 2 October 2025, in relation to my access application FOI2025-017.

The Internal Review decision purports to rely on section 26 of the Act to conclude that no relevant documents exist. I contend that this conclusion is unsustainable because DPIRD failed to take "all reasonable steps" to locate documents, misconstrued the scope of my application, and did not meet its obligations under the Act.

Grounds of Complaint

1. Inadequate Search under s.26

DPIRD has stated that its search was confined to the keywords "Designated Inspectors", "DI", "Designated Inspector" and "Designated". My application sought governance documents in three categories: oversight records, internal risk assessments, and Standard Operating Procedures (SOPs)/policies.

A reasonable search for such records would necessarily include broader terms such as "policy", "procedure", "SOP", "risk", "audit", "guideline", or "AWAC". The exclusion of these obvious terms unduly restricted the search and rendered the section 26 notice unreliable.

2. Misconstruction of Scope

DPIRD interpreted my request as confined solely to documents that explicitly reference "Designated Inspectors", and excluded documents concerning "General Inspectors". This is an unreasonable construction. Under s.35A of the Animal Welfare Act 2002, Designated Inspectors are a sub-class of General Inspectors. Any SOPs, risk assessments or oversight frameworks applying to General Inspectors necessarily govern DIs. By refusing to consider these documents, DPIRD excluded clearly relevant records from scope.

3. Breach of s.11 Duty to Assist

I expressly requested that, if no documents existed, the agency provide a clear written confirmation to that effect. The Internal Review dismissed this as "out of scope", on the basis that it would require "creating a new document". This is incorrect: s.26 of the Act requires agencies to confirm when no documents exist, and s.11 imposes a duty to assist applicants to clarify the outcome of their application. The refusal to provide such confirmation is inconsistent with both provisions.

4. Procedural Unreasonableness

The Internal Review did not engage substantively with the three categories of documents sought. Instead, it relied on restrictive interpretations that guaranteed a negative outcome. This approach amounts to a constructive denial of access, contrary to the objects of the Act and the requirement that agencies conduct a genuine and reasonable search.

Relief Sought

I respectfully request that the Commissioner:

- Set aside the Internal Review decision of 2 October 2025;
- Direct DPIRD to conduct a fresh and reasonable search, using appropriate and comprehensive search terms; and
- Clarify that documents governing General Inspectors fall within the proper scope of my application, insofar as they also apply to Designated Inspectors.

Attachments

- 1. Original FOI application (FOI2025-017), lodged 10 July 2025
- 2. DPIRD's Notice of Decision, dated 8 September 2025
- 3. Application for Internal Review, lodged 10 September 2025
- 4. DPIRD's Internal Review Notice of Decision, dated 2 October 2025

Yours sincerely,
Hanyu Liu
