

6 June 2013

Jxeeno

Sent via email: foi+request-119-7bc3666a@righttoknow.org.au

Our Ref: FOI1213/30.03

Dear Jxeeno,

FOI Application

I am writing in relation to the request for information you made to NBN Co Limited (**NBN Co**) recently. In particular, you indicated that you were seeking the following:

*A document containing the exact activation dates for each Fibre Serving Area Module activated before 1st May 2013.
For all Fibre Serving Area Modules activated with early access, a date indicating the final activation is sufficient.*

In your request, you did not indicate that you were seeking documents under the *Freedom of Information Act 1982 (the FOI Act)*, which is a requirement to make a formal FOI application. However, I presume you intended to make such a request. If this is not correct, please notify the writer at your earliest convenience.

Clarification of FOI Request Terms

Since receiving your FOI request, the writer has made enquiries with NBN Co staff in order to identify what information NBN Co holds that is relevant to your request. At present, the terms of your request are not sufficiently clear to identify the information you seeking. It is understood by NBN Co staff that the phrase "activation dates" could relate to a number of different things, including the dates that the Fibre Serving Area Modules achieved premises passed. Until the terms of your request are clarified, NBN Co FOI staff will be unable to continue processing your request.

In that regard, I would ask that you **contact the writer to discuss and clarify the scope of this FOI application**. Once the terms of your request have been confirmed, NBN Co will continue processing this request. For your reference, the statutory period for processing an FOI request is 30 days, subject to any suspension of the processing period or extension of the time for deciding the application. We will, however, seek to expedite the processing of this application once the scope of this request is clear. In addition, please note that processing charges may be imposed and that consultation with third parties may be required. If it is necessary to seek agreement to pay charges or to consult with third parties, additional processing time is provided under the FOI Act. You will be advised of any charges as well as any need to consult third parties in relation to your request.

Information Already in Public Domain

It is NBN Co's standard practice to consider information in the public domain as to be out of scope of an FOI request. However, we will endeavour to provide you with links to documents that are already in the public domain. In that regard, I would refer you to the following [link](#), which contains a very large amount of information relating to the NBN ready for service rollout dates up to the end of April 2013.

Operation of FOI Act at NBN Co

In addition, I would refer you to NBN Co's commercial activities exemption (**CAE**), as per [section 7\(3A\)](#) and [Part II of Schedule 2](#) of the FOI Act. As you may be aware, documents that are in relation to NBN Co's "commercial activities" are not subject to the operation of the FOI Act. For your reference, the Information Commissioner completed a review decision in January 2012 (**the Internode Decision**), which provides background and guidance as to the application of the CAE to NBN Co. The Internode Decision may be found by clicking

on the following [link](#). While I am not making a formal decision, nor have I begun to examine any relevant documents, there is a possibility that the documents falling within the terms of an FOI request to NBN Co may be subject to the CAE.

Disclosure Log

NBN Co is required to publish documents on its website within 10 working days after the release of the documents to an FOI applicant. The information you seek may be published in full (as released to you) or with some additional exceptions as per section 11C of the FOI Act. For further information please visit our website and click on the [Disclosure Log link](#).

If you have any questions or need to discuss your application, please feel free to contact the writer on Tel. (02) 8918 8596 or via email on davidmesman@nbnco.com.au.

Sincerely,

A handwritten signature in blue ink, appearing to read "David J Mesman", with a horizontal line extending to the right.

David J Mesman
FOI Officer