



2 March 2017

Mr Mark Diamond

Sent via email: foi+request-3113-6d2e7964@righttoknow.org.au

Our Ref: 1617/44.05

Dear Mr Diamond,

nbn™ network FTTN Cabinet Locations

I am writing in relation to your request under the *Freedom of Information Act 1982* (the **FOI Act**) sent to **nbn**'s FOI email address on 17 February 2017, seeking the following:

*An electronic document (e.g., database extract or spreadsheet) showing the location of all existing FTTN cabinets. I assume that this information will be easily extractable from **nbn**'s existing electronic records. If it is possible to provide the requested document under administrative arrangements, please do so. Otherwise, please treat this as a formal application under the Freedom of Information Act, 1982.*

Search & Retrieval Time

On 25 February 2017, you emailed **nbn**'s FOI Group, and posed a series of questions, seeking to refine the terms of your FOI request. You also sought guidance as to how **nbn** stores its network data, particularly in relation to FTTN cabinets. As outlined in my previous correspondence, there may be security issues associated with the potential release of this sort of information. As such, I can only provide general information in that regard.

For reference, I originally received guidance from relevant **nbn**'s business units that the best source of information was in **nbn**'s finance IT systems – and the original estimate of 15 hours retrieval time was based upon that group's estimates. However – and after discussing the points you raised, I subsequently received guidance that it would be possible to collect the relevant information from network IT systems, which do have a geographic interface.

It should also be noted that there are many thousands of FTTN cabinets across every State and Territory in Australia, with the numbers approaching 10,000. However, **nbn** does not maintain a central list of all FTTN cabinet locations. Rather, **nbn** technical staff must draw down the information first by each State or Territorial (8), then by alphanumeric searches, starting with each letter (26), and then uploading the results to a spreadsheet. Relevant **nbn** staff indicated that each search, uploading and checking processes would take roughly 2 minutes. This totalled approximately 416 minutes or 6.93 hours, with an additional hour for quality assurance by relevant managers. As such, I have modified the time below in the estimate for the Advance Deposit Request so as to reflect the reduced search and retrieval time.

FOI Review Time

As to the FOI review time, this involves a review of the facts and their application to the principles in the FOI Act, along with legal review and analysis. It also requires consideration of comments and potential objections from within **nbn** and its relevant executives, potential third party objections if required under the FOI Act, as well as time needed to draft, and then settle any final FOI decision. Complex FOI decisions tend to require between 8 to 24 hours of processing (review) time – or more – depending on the points at issue, relevant objections and the exemption arguments put forward by the business and others, including third parties.



I refer you again to the comments in my previous letter, concerning **nbn**'s commercial activities exemption (**the CAE**) or carve out from the application of the FOI Act. I would recommend that you review the [general background information](#), noting that this is only a summary of **nbn**'s approach to the CAE, and each FOI application requires a fresh review of the facts and their application to the CAE. Moreover, this does not include general and public interest exemptions under the FOI Act. Please be aware that the estimate in relation to this FOI application is in the mid-range of complex matters, noting that there may be significant commercial and security issues which would need to be considered.

More generally, you may wish to consider changing the scope of your application to a request for a simple number of FTTN cabinets, rather than the specific locations of the same. This sort of request would not likely involve the same magnitude of retrieval time, nor the same degree of legal analysis.

Revised Advance Deposit Request

Per section 29(1) of the FOI Act, I have determined that processing charges are payable in relation to this FOI request. **nbn** staff completed a preliminary assessment of the work involved in processing your FOI request and estimated the applicable charges as follows:

Search and retrieval time	7.9 hours @ \$15 per hour	\$118.50
Review & decision making time	13.5 hours @ \$20 per hour	\$270
Sub-total		388.50
Less first 5 hours decision making time(*)		(-\$100)
TOTAL		\$288.50

(*) In accordance with the *Freedom of Information (Fees and Charges) Regulations*, you are not charged for the first 5 hours of decision making time.

Please note that the estimated processing time – and relevant fees – may increase or decrease, depending on the nature of the work required. However, you will be advised if the fees increase beyond the estimate outlined above. As the total estimated processing charges exceed \$100, a deposit of 25% (**\$72.13**) is required.

Within 30 days of this notice, you are required to:

- agree to pay the charge and forward the deposit; or
- contend that the charge has been wrongly assessed, or should be reduced or not imposed (you should provide full reasons for your contention); or
- narrow the scope of your request (which may reduce the charge payable); or
- withdraw your request.

If you fail to notify **nbn** in a manner mentioned above within 30 days of this notice, your request will be taken to have been withdrawn. In addition, if you contend that the estimated charge has been wrongly assessed, or should be reduced or not imposed, you must notify **nbn** of your contention, providing reasons, and evidence where relevant, to support your submission. In deciding whether to reduce or not to impose a charge, the FOI decision-maker will consider all relevant factors, including:

- whether payment of the charge, or a part of it, would cause you financial hardship; and
- whether the giving of access is in the general public interest.

If you choose to contend that the charge has been wrongly assessed or should be reduced or not imposed, this will not constitute a request for internal review. You will be advised of your review rights under sections 53A and 54 of the FOI Act following consideration of your contentions.

Once **nbn** has completed the processing of your request, the assessment of the charge payable will be revised based on the actual amount of work involved in processing your request. If you are refused access to any of the documents that



are relevant to your request, **nbn** may not impose an actual charge that is higher than the final estimated charge. This means that, if you are refused access to any document, the actual charge that will be payable will be lower than or equal to, but not more than, the final estimate of charges. It is only if you are granted access to all the documents that are relevant to your request that the actual charge imposed may be higher than the estimated charge. It is important to note that the payment of FOI processing fees does not guarantee access to documents or information.

If you agree to pay the estimated charge set out above, or the deposit for that charge, you should make arrangements to pay **nbn** using the following electronic banking details:

Bank name:	CBA
Name:	nbn co limited FOI
BSB:	062-438
Account no:	10240782
Reference:	FOI-AYCA-4812T9

When making a payment, please ensure you include the reference (FOI-AYCA-4812T9) noted above. If you provide a deposit and the processing of your request progresses to a point where a decision on access is made, a determination about the imposition of the actual charge will be made at that time. The balance of the actual charge will become a debt due to the Commonwealth, which **nbn** would be obliged to pursue, unless other arrangements are made or if **nbn** agrees to waive the fees.

Per section 31 of the FOI Act, the time limit for processing your request is suspended from the day you receive this notice, being today's date. Please also be advised that the charge notice day is not counted in calculating the processing time limit. For reference, 5 processing days have passed as of the writing of this letter. In addition, the processing time limit will resume:

- On the day upon which **nbn** receives your deposit.
- Alternatively, if you decide to contest the charge, the processing time limit will resume on the day upon which **nbn** notifies you of its decision not to impose a charge – if **nbn** so makes a decision.
- In the event that **nbn** decides to reduce the charge and deposit is required, the processing time limit will recommence on the day upon which you pay the reduced deposit.

More information about charges under the FOI Act is available in [Fact Sheet 7](#) on the Office of the Australian Information Commissioner's (OAIC) website and in part 4 of the OAIC [FOI Guidelines](#).

Disclosure Log

In accordance with the FOI Act, **nbn** is required to publish documents provided to FOI applicants within 10 working days after release. The information you seek may be published in full (as released to you) or with some additional redactions as per section 11C of the FOI Act. For further information and other details, please visit our [Disclosure Log](#) on **nbn's** website.

If you need to discuss your application, please feel free to contact the writer on (02) 8918 8596.

Yours faithfully,

David Mesman
General Counsel
FOI Privacy & Knowledge Management