

8 December 2017

Mr Ben Fairless

By email: foi+request-4232-6ca044a1@righttoknow.org.au

Our Ref: 1718/62.02

Dear Mr Fairless

FOI Request – nbn Online Masterclass

I am writing in relation to your application to **nbn** of 5 December 2017, seeking information under the *Freedom of Information Act 1982* (Cth) (**the FOI Act** or **the Act**). In particular, you were seeking:

- “A copy of the final invite for every online Master Class”
- “A copy of any recordings created for every Online Master Class.”

Scope of the application

In relation to the invitations to the online Master Classes, we note that these documents necessarily include certain details, such as conference dial-in numbers, together with other details such as conference pin numbers and associated links, in addition to the personal contact details of **nbn** staff. In those circumstances, we request that you confirm your agreement to these details being redacted from any document(s) produced in respect of your request. Please note, no decision has been made as to whether such documents will be released, as at the present moment.

If you are able to provide your confirmation that you consent to the redactions outlined above, within five (5) business days of the date of this correspondence, this application will be processed administratively. In the alternative, **nbn** will issue an Advance Deposit Request in accordance with section 29 of the FOI Act.

Accordingly, we look forward to your confirmation as to how you wish to proceed.

nbn's Commercial Activities Exemption

As a Commonwealth Government Business Entity or GBE, **nbn** is carved-out from the application of the FOI Act in relation to its commercial activities. That means that documents relating to **nbn**'s commercial activities are not subject to the FOI Act. This is beyond the standard exemptions which other Government agencies may rely upon. As such, **nbn** generally requests that applicants exclude certain matters that are likely to fall within the commercial activities carve-out, along with other standard exemptions, e.g. legal privilege, confidential materials, commercially sensitive information, deliberative materials, etc. That assists **nbn** in ensuring that its resources are not unduly diverted from its core activities, particularly where the outcome of an FOI decision may likely result in a refusal. The following link summarises and provides [general background information](#) concerning **nbn**'s commercial activities carve-out. That document references two reviews by the Australian Information Commissioner that considered **nbn**'s carve-out, being the [Internode Decision](#) and the [Battersby Decision](#).

FOI Processing Period and Charges

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. Please also note that processing charges may be imposed in relation to FOI requests. It is **nbn**'s policy to impose such charges and you will be advised of any charges in relation to your FOI request.

For reference, **nbn**'s approach to processing charges is outlined at the following hyperlink: Submission to the Office of the Australian Information Commissioner [Charges Review](#). In particular, **nbn** supports – and will generally apply –



Recommendation 24 in the [Hawke Review into FOI Legislation](#), (**the Hawke Review**) as a benchmark in reviewing FOI applications. For your reference, Recommendation 24 suggests a 40-hour ceiling for all FOI processing charges.

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) 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) 9031 3471.

Yours faithfully,

Paul Kosterman

Senior Legal Counsel

FOI Privacy & Knowledge Management