



30 January 2020

GPON

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Our Ref: FOI1920/59.02

Dear GPON

Request for Information

I am writing in relation to your correspondence to **nbn**'s FOI Officer email address on 20 January 2020 seeking:

"statistical data on the number of premises within any Brownfield ADA/DA designated as FttC that were skipped, or required significant additional work because of no workable premises lead-in. This would include missing, damaged, or unidentifiable premises lead-ins.

If this can be presented as a breakdown of service class by FttC ADA that would be appreciated."

The *Freedom of Information Act 1982* (Cth) (**FOI Act**) provides that members of the public have a general right of access to specific documents, subject to certain exemptions. Under [section 15\(2\)](#) of the FOI Act, a valid FOI request must state that the request is an application for the purposes of the FOI Act and provide such information concerning the requested documents as is reasonably necessary to enable **nbn** to identify them, among other things.

Notice and Scope of Request

As currently drafted, the terms of your request are not sufficiently clear and the particular documents that fall within the parameters of the request are therefore not reasonably identifiable. Accordingly, your FOI request cannot proceed in its current form. Until you clarify those terms, **nbn** will not formally acknowledge your request, and the statutory period for completing this request will not commence.

In that regard, please clarify the following issues:

- "ADA/DA". I understand that the terms ADA and DA overlap, but are not necessarily interchangeable. **nbn** uses the term "ADA" or Access Distribution Area rather than DA. Could you please clarify that you are seeking data relating to ADA's only?
- "Skipped". Please clarify what you mean by "skipped", in particular please specify the relevant point in time. Do you mean to refer to premises that were not connected to the **nbn**[™] network [for the reasons referenced] at the time **nbn** declared the ADA ready for service?
- "Significant additional work". Could you please clarify what you mean by this, and in particular, please confirm that you mean network construction work, by what measure do you mean the work to be "significant", and what is the distinction for your request between "significant" and say, "minor".



nbn's Commercial Activities Carve-out

I refer you to **nbn's** commercial activities carve-out (**the CAC**) or carve-out from the application of the FOI Act and refer you to [section 7\(3A\)](#) and [Part II of Schedule 2](#) of the FOI Act. Please be aware that documents that are in relation to **nbn's** "commercial activities" are not subject to the operation of the FOI Act and would be exempt from release. The following link summarises and provides [general background information](#) concerning **nbn's** commercial activities carve-out. That background document references two reviews by the Australian Information Commissioner that considered **nbn's** CAC: the [Internode Decision](#) (in January 2012) and the [Battersby Decision](#) (in July 2013). While I am not making a formal decision and have not reviewed any documents, I note that there is a distinct possibility that documents falling within the terms of this request may be subject to the CAC, among other exemptions from release.

FOI Processing Period and Charges

The statutory period for processing an FOI application is 30 days, subject to any suspension of the processing period or extension of the time for deciding the application. Please also note that **nbn** may impose processing charges in relation to FOI requests. You will be advised of any charges in relation to your request.

For your reference, processing charges for FOI applications are set by regulation and may be found at **nbn's** website – and, in particular, its [FOI page](#). The following hyperlink outlines **nbn's** approach to processing charges: 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. More information about charges under the FOI Act is available 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.

Please feel free to contact me on (02) 9031 3022 if you have any questions, or if you would like to discuss your request.

Yours sincerely

Rohan Singh

Senior Legal Counsel

FOI, Privacy & Knowledge Management