



3 August 2020

MG (a pseudonym)

foi+request-6462-e641058e@righttoknow.org.au

Our Ref: FOI-2021/02.05

Dear MG

FOI Act Application – Access Decision

I am writing in relation to your application made under the *Freedom of Information Act, 1982 (FOI Act)* seeking access to data regarding premises “mapped” for **nbn**’s Sky Muster™ services.

The Statement of Reasons (**attached**) outlines the specific terms of the FOI request, the decision-maker’s findings and the access decision.

An FOI decision may be reviewed, subject to sections 53A and 54 of the FOI Act. Please refer to the Office of the Australian Information Commissioner’s website at the following [link](#), which provides details about your rights of review and other avenues of redress under the FOI Act.

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

Yours sincerely

Rohan Singh

Senior Legal Counsel

FOI Privacy & Knowledge Management



FREEDOM OF INFORMATION REQUEST – FOI-2021/02.05

ACCESS DECISION STATEMENT OF REASONS

Background – nbn and the FOI Act

1. **nbn** is a government business enterprise (**GBE**), which has the mandate of realising the Australian Government's vision for the development of Australia's new broadband infrastructure.
2. **nbn** recognises that information is a vital and an invaluable resource, both for the company and for the broader Australian community. That is why **nbn** fosters and promotes a pro-disclosure culture, with the goal of creating an organisation that is open, transparent and accountable. To that end, **nbn** makes a large amount of information freely available to the public on our website: <http://nbnco.com.au/>.
3. **nbn** also manages its information assets within the terms and spirit of the *Freedom of Information Act* 1982 (the **FOI Act**). We endeavour to release information proactively, while taking into account our commercial and other legal obligations.
4. Subject to relevant exemptions, the FOI Act gives the Australian community the right to access documents held by Commonwealth Government agencies, as well as "prescribed authorities" such as **nbn**.
5. Under subsection 23(1) of the FOI Act, **nbn's** Chief Executive Officer authorises me, to make decisions about access to documents and related matters under the FOI Act.
6. Under subsection 26(1) of the FOI Act, I am required to provide a Statement of Reasons for my decisions in relation to FOI applications. I am also required to set out my findings on any material questions of fact, referring to the material upon which those findings were based. Those findings are outlined below.

Application Chronology and Scope of Request

7. On 3 July 2020, **nbn** received an email from MG, a pseudonym, (the **Applicant**) making an application under the FOI Act requesting:

"how many premises are mapped for a Skymuster connection (as at 01/07/2020) within a:*

- a. 0 - 5 km radius from Adelaide GPO*
- b. 5 - 10 km radius from Adelaide GPO*
- c. 10 - 15 km radius from Adelaide GPO*
- d. 15 - 20 km radius from Adelaide GPO*
- e. 20 - 25 km radius from Adelaide GPO*

*(*mapped means any premises NBNCo has designated to receive a Skymuster connection, whether connected or not)."*

8. On 17 July 2020, I wrote to the Applicant to acknowledge his request.
9. On 22 July 2020, I sent the Applicant a fee request, which the Applicant paid in full on 23 July 2020.



10. On 3 August 2020, I made my access decision, as outlined below.

Findings on material questions of fact

11. Under the FOI Act, applicants have a right to seek documents, rather than information or datasets. However, section 17 of the FOI Act also permits FOI agencies to draw information from computers or other equipment and to collate that information into a document, which had previously not existed. This requirement is subject to a caveat, i.e. that an FOI agency is not required to collate the information if it would substantially and unreasonably divert the agency's resources.
12. Noting the above points, subject matter experts (**SMEs**) within **nbn** were able to identify relevant information within **nbn**'s IT systems and collate the same into a new document (**the Relevant Document** – found at **Attachment A**) – and without unreasonably and substantially diverting **nbn**'s resources.
13. I am satisfied that **nbn** staff have conducted all appropriate searches for the Relevant Document. I am satisfied that there are no further documents that fall within the scope of the Applicant's request.

Access Decision

14. In undertaking my review of the Relevant Document, it is my view, having regard to the nature and subject matter of the request and the relevant provisions of the FOI Act, that it is appropriate to release the Relevant Document to the Applicant.

Decision-making Time and Fees

15. It is **nbn**'s general policy to charge applicants for FOI processing time. I find that the processing time as set out in my fee request to the Applicant was accurate and that no further fees are payable.

Disclosure log

16. Ordinarily, **nbn** is required to publish documents provided to FOI applicants within 10 working days after release. I do not consider that any exceptions as per section 11C of the FOI Act apply, and accordingly, **nbn** will publish the Relevant Document on its disclosure log.
17. If you are dissatisfied with this decision, you have certain rights of review. Details regarding your rights of review and appeal are outlined in the covering letter, provided with this Statement of Reasons.



Attachment A – FOI-2021/02 – Document Released in Full

Under the Act, FOI applicants have a right to seek documents, rather than information or datasets. However, section 17 of the FOI Act also permits FOI agencies to draw information from computers or other equipment and to collate that information into a document, which had previously not existed (**the Relevant Document**). nbn's FOI Officer determined to release the Requested Document to the Applicant.

Distance to Adelaide GPO(*)	Active nbn satellite services at 1 July 2020	Potential nbn satellite services(**) at 1 July 2020
0 - 5 km radius from Adelaide GPO	1	1
5 - 10 km radius from Adelaide GPO	43	160
10 - 15 km radius from Adelaide GPO	145	659
15 - 20 km radius from Adelaide GPO	162	859
20 - 25 km radius from Adelaide GPO	152	771
Grand Total	503	2450

(*) It is important to note that distance from a capital city's GPO is not necessarily an indicative measure of whether a given premises can expect to be connected to the nbn™ network via satellite vs. fixed line or fixed wireless services. It is nbn's practice to deploy Sky Muster™ satellite services where providing fixed line or fixed wireless connections to that area would be unworkable.

(**) It is also important to note that potential, inactive connection numbers:

- are reflective of a point in time and may change due to alterations in nbn's network deployment plans, such as with upgrades in access technologies;
- would include sites designated for nbn's wholesale broadband clients, i.e. retail service provider or RSP trial locations and nbn's own monitoring sites for testing the health of the nbn™ network;
- would also represent sites or locations where end-users may not wish to connect to the nbn™ network, e.g. at an isolated building in a rural, remote or inaccessible location;
- would also include premises where end-users may have chosen not to connect to the nbn™ network and to retain legacy services; and
- would also include premises where end-users may subsequently choose to connect to nbn™ network services at a future date, noting that end-users with Sky Muster™ connections can continue using their legacy (copper line) services and for which there is no mandatory disconnection requirement. This is not the case within the nbn™ network's fixed-line (copper) footprint, where end-users have roughly 18 months in which to migrate to the nbn™ network before they are disconnected from legacy services.