



20 May 2021

Chris
foi+request-7301-7293141a@righttoknow.org.au

Our Ref: FOI 2021/876.03

Dear Chris

Request for Information

I am writing in relation to your correspondence to **nbn's** FOI Officer email address on 6 May 2021 seeking:

“the distance between my house and the node I will be/am contacted to”.

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.

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/information falling within the terms of this request may be subject to the CAC, among other exemptions from release.

Notice and Scope of Request

Your request seeks the distance from your premises to a node. Could you please clarify whether you mean the direct distance or the length of any cabling to from your premises to the relevant node?

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, in its current form, is invalid. 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 inform me if there is a specific document, or set of documents, which you are seeking – at least to the extent that you are able to identify them.



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 in [Fact Sheet 7](#) on the Office of the Australian Information Commissioner's (**OAIC**) website and in part 4 of the OAIC [FOI Guidelines](#).

Proof of Identity

nbn must ensure that it does not inadvertently release information and documents that could be the subject of objections from third parties, based upon their personal, professional or business affairs. Your request seeks information that would most likely include personal, professional or business information relating to an identifiable individual or business. Before commencing the processing of any application, further to the requirements outlined above, I am required to confirm your identity and links to the subject of this request, being the premises referred to in your request.

You will be able to confirm your identity by providing to us an original certified copy of your driver's licence (or some other form of relevant identification) which includes your full name and address (per above), together with an original certified copy of a local council rates notice or utility bill (e.g. your service provider's invoice for your **nbn**TM network service). Hard copies are required.

You may forward certified, hard copy documents to “**nbn** FOI Officer, c/- Level 13/100 Mount Street, North Sydney, NSW, 2060”.

If you wish to proceed with a formal FOI application, it will be necessary to confirm your identity and links to the subject property of this request. In the interests of protecting your privacy, I suggest that we correspond directly on that issue so that further personal information relating to you is not published online.

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