



12 August 2021

MG (a pseudonym)
foi+request-7549-235caa9e@righttoknow.org.au

Our Ref: FOI212202.03

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 and a breakdown of “Complex Premises”.

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
Freedom of Information



FREEDOM OF INFORMATION REQUEST – FOI212202.03

12 AUGUST 2021

ACCESS DECISION

STATEMENT OF REASONS

Access Decision - summary

1. Access to the Relevant Document (defined below and at Attachment A) is granted in full.

Background – nbn and the FOI Act

2. **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.
3. **nbn** recognises that information is a vital and 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/>.
4. **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.
5. 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**.
6. 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.
7. 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

8. On 13 July 2021, **nbn** received an email from MG, a pseudonym, (the **Applicant**) making an application under the FOI Act requesting:

"Can you please advise how many premises are mapped for a Skymuster connection (as at 01/07/2021) 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

Of these premises mapped for Skymuster requested above, can you also please provide the number of those premises that are considered "Complex Premises" under NBnCo's "Technology Choice Program" (as*



at 01/07/2021), and therefore unable (as at 01/07/2021) to request a change of technology (from Skymuster) via NBN's "Technology Choice program".

Please breakdown the "Complex Premises" in the same way:

- 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)."

- 9. On 14 July 2020, I wrote to the Applicant to acknowledge his request.
- 10. On the date specified above, 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 access to 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. In its [Submission to the OAIC Charges Review](#), **nbn** outlined its support of fees and charges and their importance to the FOI scheme.
- 16. **nbn** staff spent time searching for the Relevant Information to respond to the request, however the time was not substantial on this occasion.
- 17. I have spent no more than five hours drafting and finalising this FOI decision, in addition to completing relevant correspondence in respect of the request. No fees are levied for the first five hours of FOI decision-making time and accordingly no fees are payable in respect of the decision-making time in this instance.



18. Considering the relatively small sum involved, I have determined to waive processing fees in relation to this FOI application. This is permitted by Regulation 3 of the *Freedom of Information (Charges) Regulations 1982*, which provides decision-makers with a general discretion to impose or not impose a charge or impose a reduced charge for the processing of an FOI request.

Disclosure log

19. Ordinarily, **nbn** is required to publish documents provided to FOI applicants within 10 working days after release. I do not consider that that any exceptions as per section 11C of the FOI Act apply, and accordingly, **nbn** will publish the Relevant Document on its disclosure log.
20. 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 – FOI2122002 – 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 2021	Potential nbn satellite services ^(**) at 1 July 2021	Grand Total	Subset of complex premises as at 1 July 2021 ^(***)
0 - 5 km radius from Adelaide GPO	1	1	2	2
5 - 10 km radius from Adelaide GPO	50	141	191	179
10 - 15 km radius from Adelaide GPO	175	561	736	624
15 - 20 km radius from Adelaide GPO	202	768	970	821
20 - 25 km radius from Adelaide GPO	177	697	874	813
Grand Total	605	2168	2773	2,439

(*) 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.

(*)** Subset of the “Grand Total” column, premises considered “complex” for the purposes of nbn’s Tech Choice program, being ineligible for a Tech Choice quote due to cost or complexity.