



26 August 2022

Steven Roddis
foi+request-9212-1fcefa37@righttoknow.org.au

nbn Ref: FOI2223008.004

Dear Mr Roddis

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 the request in **nbn**'s FOI application no. 1213-15.

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
Freedom of Information Officer



FREEDOM OF INFORMATION REQUEST – FOI2223008.004

ACCESS DECISION – 26 AUGUST 2022

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 considering 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 1 August 2022, **nbn** received an email from Steven Roddis (the **Applicant**) making an application under the FOI Act in the following terms:

*“I’m looking for the FOI request related to NBN CO FOI1213-15
<https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.nbnco.com.au%2Fcontent%2Fdam%2Fnbnco%2F2018%2Fdocuments%2FDisclosure-log%2Ffoi-no-1213-15-nbn-co-it-security-documents-released-9-may-2013.pdf&data=05%7C01%7Crohansingh2%40nbnco.com.au%7C7e18fdf4d5874aca0c8508da73837069%7C947cb559a38041529eb5c7aaf41b194f%7C0%7C0%7C637949305752517081%7CUnknwn%7CTWFpbGZsb3d8eyJWljoic4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCi6Mn0%3D%7C2000%7C%7C%7C&sdata=4xLBfRAhfuvEo5EtHTSQm2X29LAFiUx6kF016tRRnuc%3D&reserved=0>
I am explicitly **not** looking for personal information and even would prefer that personal information is redacted.*

*I am explicitly ***not*** looking for personal information and even would prefer that personal information is redacted.*

To clarify I'm looking for the content of the message requesting those documents referenced above.”



8. I acknowledged receipt of the Applicant's email on 2 August 2022. On 25 August 2022 I formally acknowledged the Applicant's FOI application. At that time, I indicated to the Applicant that all processing fees would be waived.
9. On the date specified above, I made my access decision, as outlined below.

Findings on material questions of fact

10. Under section 3(1)(b) of the FOI Act, the public has a right to seek access to "documents" rather than to discrete bits of information. However, section 17 of the FOI Act enables **nbn** to provide applicants with information where such information is not available in a discrete written form, but it is "ordinarily available to the agency for retrieving or collating stored information". In that regard, a document containing the information within the scope of the current request could be prepared, to the extent that any such information exists.
11. The Applicant's request included the clarification that he sought "*the content of the message requesting those documents referenced above.*" I therefore understand that the Applicant's request was for the wording of the request considered in the access decision under **nbn** FOI application no. 1213-15.
12. Following receipt of the Applicant's request, **nbn** staff undertook searches within the company's records and located information as per the Applicant's request, (**Relevant Information**).
13. I am satisfied that **nbn** staff have conducted all appropriate searches for the Relevant Information. 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 Information, 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 Information to the Applicant.
15. A copy of the Relevant Information is **attached** to this Statement of Reasons.

Decision-making Time and Fees

16. It is **nbn's** general policy to charge applicants for FOI processing time. However, I have decided to exercise my discretion to waive all applicable fees associated with making this decision. Accordingly, no fees are payable.

Disclosure log

17. Ordinarily, **nbn** is required to publish documents provided to FOI applicants within 10 working days after release. In this case, I consider that no exceptions as per section 11C of the FOI Act apply. Accordingly, **nbn** will publish the Relevant Document on its disclosure log.
18. 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 – FOI2223008 – Document Released in Full

Under the *Freedom of Information Act, 1982*, 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 Information**). nbn's FOI Officer determined to release the Requested Information to the Applicant.

Relevant Information sought: *the wording of the request considered in the access decision under nbn FOI application no. 1213-15.*

Relevant Information

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Since the company came into existence, case studies or similar documents detailing serious cyber incidences seeking to compromise NBN Co infrastructure, which required escalation, but not including:

- *Attorney General's Department or similar Commonwealth Government assessments; nor*
- *Risk mitigation strategies or defensive tactics; nor*
- *NBN Co or broader Commonwealth Government security precautions; nor*
- *Similar information that likely be subject to secrecy or confidentiality exemptions.*

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