



28 January 2025

Mr Jarred Crowe

By email only: foi+request-12431-06c83837@righttoknow.org.au

Dear Jarred,

Notice of decision – request for documents under the *Freedom of Information Act 1982 (Vic)*

1. This letter contains my decision on behalf of V/Line Corporation in relation to your request for documents under the *Freedom of Information Act 1982 (Vic)* (**FOI Act**).
2. In making my decision, I have considered the object of the FOI Act, which is to create a general right of access to information, limited only by exceptions and exemptions necessary to protect essential public interests, privacy, and business affairs.
3. My decision and reasons are provided below. A schedule outlining the documents, and my decision is also attached to this letter.

Background

4. On 1 December 2024, you requested the following documents in relation to an incident that occurred on 22/11/2024, in which a train at Gisborne expelled an oil-like fluid onto the station platform and adjoining track.

Specifically, I request access to the following documents:

1. Incident report
2. The most recent maintenance report for the affected train prior to the incident.

Documents relevant to your request

5. A thorough and diligent search for documents within the terms of your request was undertaken. The following searches were conducted:
 - (a) Emails sent to the following internal business units to conduct search for documents under the scope of the FOI request:
 - Customer Relations
 - Media
 - Communications
 - Operations
 - Security
 - Customer Service and Accessibility
 - Customer Investigations

6. On this basis, we located three documents in relation to the terms of your request.
7. These documents consist of an internal email between agency officers, an incident report and a maintenance report.

Decision on each document

8. I have decided to:
 - (a) release 1 document in part; and
 - (b) refuse access to 2 documents in full.

Reason for decision

9. In making my decision, I applied the following exemptions:

Section 33(1) – Documents affecting personal privacy

10. Section 33(1) exempts from disclosure any document (or any part thereof) that would unreasonably disclose information relating to the personal affairs of another person (including a deceased person).
11. For this exemption to apply to a document, two parts must be satisfied:
 - (a) the information contained in the document must relate to the personal affairs of a person; and
 - (b) the release of the information would be an unreasonable disclosure.
12. Section 33(9) defines ‘information relating to the personal affairs of any person’ to include information that identifies any person or discloses their address or location, or information from which any person’s identity, address or location can reasonably be determined.
13. This exemption has been applied to signatures and names of internal administrative V/Line employees and external third parties. Release of this information would be unreasonable as it is not apparent that the individuals concerned would reasonably expect this information to be disclosed under the Act.
14. Having considered the sensitive nature and context in which the personal affairs information was recorded, I consider the relevant third parties would likely object to the release of their personal affairs information. Accordingly, I have determined consultation with the relevant third parties is not practicable under section 33(2C) of the FOI Act.
15. I have determined the release of certain information in the documents would be unreasonable for the following reasons:



- (a) generally, the direct contact details of an agency officers are not made widely available;
- (b) I do not consider disclosure of this personal information relating to third parties and agency officers peripheral to the matter would assist the Applicant;
- (c) The agency officers recorded in the documents are not the decision makers in relation to the context and nature of the request. They only performed administrative tasks and recorded their name in the documents as administrative requirement.
- (d) having considered the broad implications regarding disclosure of third parties in this matter, I am not satisfied the Applicant's interest is outweighed by the public interest in ensuring the privacy of individuals who assist the Agency during their complaint is maintained.

16. This exemption has been applied to certain information in Document 1, 2 and 3.

Sections 34(1)(b) and 34(4)(a)(ii) - Business, Commercial or financial information of an undertaking

17. Section 34(1)(b) provides a document is an exempt document if its disclosure under the FOI Act would disclose information acquired by an agency from a business, commercial or financial undertaking and:
- (a) The information relates to other matters of a business, commercial or financial nature;
 - (b) The disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.
18. A document is exempt under section 34(4)(a)(ii) if:
- (a) the agency is engaged in trade or commerce;
 - (b) the document contains information of a business, commercial or financial nature; and
 - (c) disclosure of which would be likely to expose the agency unreasonably to disadvantage.
19. These exemptions have been applied to both document 2 and 3 in full.
20. To determine whether this exemption applies, V/Line must provide the third party undertaking with the opportunity to provide a submission establishing how the disclosure would expose it to disadvantage.
21. Under section 34(3) of the FOI Act, V/Line is required to notify and seek the undertaking's views as to disclosure of information in the documents. V/Line received a submission from the undertaking, who objected to the release of both documents 2 and 3 in full.



22. The undertaking submitted the release of the information in both documents would likely expose the undertaking unreasonably to disadvantage for the following reasons:
- (a) The associated contract is awarded following a competitive tender process run by the State and these documents have the potential to be used against the undertaking in future business opportunities.
 - (b) The information is sensitive and is not generally available to the public or competitors.
 - (c) The disclosure of this information could lead to unwarranted conclusions about the undertaking's obligations and position that may result in commercial and market consequences.
23. Having considered the information before me and the objection from the undertaking, I am satisfied the information is sensitive and may likely expose the undertaking unreasonably to disadvantage.

Deletion of exempt or irrelevant information

24. Section 25 of the FOI Act requires an agency to grant access to an edited copy of a document containing exempt or irrelevant information if it is practicable for the agency to delete that information, and if the applicant is agreeable to receiving an edited copy.
25. Determining what is 'practicable' requires us to consider the effort involved in making the relevant deletions and the effectiveness of those deletions – that is, whether editing the document would render it meaningless.
26. In the current circumstances, I found it was practicable to provide you with an edited copy of the documents with exempt and irrelevant information deleted in accordance with section 25 of the FOI Act.

Access charges

27. The *Freedom of Information (Access Charges) Regulations 2014* and section 22 of the FOI Act outline that an agency may impose charges for providing access to a document and sets out how to calculate those charges.
28. In this instance, I decided to waive the access charges, and you do not need to pay anything.

Receiving a copy of the documents

29. I have attached copies of the released documents along with this decision letter.

Your review rights

30. If you are not satisfied with my decision, you have the right to apply for a review of my decision by the Information Commissioner under section 49A(1)(a) of the FOI Act.



31. A review application must be in writing, identify the decision to be reviewed and the agency who made it.
32. An application must be made to the Information Commissioner within 28 days from the day you receive this letter.
33. The Office of the Victorian Information Commissioner's (**OVIC**) website has a review form you may download, which contains more information about the review process and what you can expect. OVIC's contact details are:

Office of the Victorian Information Commissioner
PO Box 24274
Melbourne VIC 3001
Email: enquiries@ovic.vic.gov.au
Phone: 1300 00 6842 (1300 00 OVIC)
www.ovic.vic.gov.au

More information

34. If you have any questions about this decision, please contact us by email at foi@vline.com.au.

Yours sincerely,

Ashley Peter-Budge
Lawyer – Public Law and Litigation



Schedule of Documents

No.	Date of document	Document description	No. of pages	Decision
1.	22/11/2024	Email correspondence between agency officers and incident report	2	Released in part Section 33(1) A marked up copy of the document is provided with this decision letter.
2.	22/11/2024	Incident report	4	Refused in full Sections 33(1) and 34(1)(b), 34(4)(a)(ii)
3.	01/10/2024	Maintenance report	10	Refused in full Sections 33(1), 34(1)(b) and 34(4)(a)(ii)