

**NOTICE OF DECISION ON PARTY REGISTRATION**  
**APPLICATION APPROVED FOR REGISTRATION IN THE REGISTER**  
**OF POLITICAL PARTIES**

**UNITED AUSTRALIA PARTY**

**Notice of decision under subsection 133(1A) of the *Commonwealth Electoral Act 1918* and Statement of Reasons**

I am writing in accordance with subsection 133(1A) of the *Commonwealth Electoral Act 1918* (the Electoral Act) to notify you of the determination of the application to register the United Australia Party (the Party) as a Parliamentary party in the *Register of Political Parties* (the Register).

I am authorised to determine this application for party registration under s 133 of the Electoral Act as a delegate of the Electoral Commission.

**Decision**

I have decided to approve the application for registration. Consequently, I entered the following Party in the Register:

Name of party:	United Australia Party
Abbreviation of name:	UAP
Logo:	
Registered Officer:	Clive Frederick Palmer
Registered Officer's address:	Level 17, 240 Queen Street BRISBANE QLD 4000
Does party seek election funding:	Yes

My reasons appear below.

**Materials I have taken into account**

In making my decision, I have had regard to:

- The application to register as a Parliamentary party received by the Australian Electoral Commission (AEC) on 18 June 2018;
- A letter from Senator Brian Burston, Senator for New South Wales, received by the AEC on 18 June 2018, declaring that he is a member of the Party and not a member of any other registered political party;
- The initial assessment of the application made by a Delegate of the Electoral Commission on 28 August 2018;
- Part XI of the Electoral Act;
- The *Commonwealth Electoral (Logo Requirements) Determination 2016*;
- Internet searches of trademarked and licenced logos undertaken by a service provider engaged by the AEC;
- Written particulars received by the AEC in response to the subsection 132(1) notice published on 6 November 2018 from "Max";

- The reply to the written particulars of Max submitted to the AEC by the Party under subsection 132(5) of the Electoral Act on 20 November 2018;
- The *Register of Political Parties* of each Australian state and territory; and
- The *AEC Party Registration Guide*.

#### Parliamentary party

On 18 June 2018, the AEC received a letter from Senator Brian Burston, Senator for New South Wales, declaring that he is a member of the Party and not a member of any other registered political party.

Accordingly, I am satisfied that the Party has at least one member who is a member of the Parliament of the Commonwealth, and satisfies the definition of a 'Parliamentary party' at subsection 123(1) of the Electoral Act.

#### Party constitution

The constitution provided in the application for registration

- is in writing; and
- sets out the aims of the Party, at least one of which being promoting the election of its candidates to the Senate and/or House of Representatives.

I am satisfied that the Party's constitution meets the requirements of having a written constitution set out in the definition of 'eligible political party' in subsection 123(1) of the Electoral Act.

#### Other procedural application requirements

The application:

- was in writing, signed by the Secretary of the Party;
- set out the name and address of the person who is to be the registered officer of the party for the purposes of the Electoral Act;
- advised whether the party wishes to receive moneys under Division 3 of Part XX of the Electoral Act;
- set out the name and address of the applicant and particulars of the capacity in which the applicant makes the application; and
- was accompanied by a fee of \$500.00.

Accordingly, I am satisfied that the application for party registration meets the requirements of paragraphs 126(2)(c), 126(2)(d), 126(2)(e) and 126(2)(g) of the Electoral Act.

#### Party name – 'United Australia Party'

On 25 September 2018, Max submitted written particulars objecting to the Party's proposed name in response to the subsection 132(1) notice published on 31 August 2018. On 20 November 2018, the Party submitted a reply to the AEC under subsection 132(5) of the Electoral Act.

### **Response to matters raised in written particulars**

Max submitted three written particulars objecting to the Party's proposed name. In his objections to the Party's proposed name, Max refers to the name or abbreviation of two parties – the proposed abbreviation of 'Australia Party' (which was part of a concurrent application from the Australian Country Party to change its name and logo and enter an abbreviation into the Register that is currently under assessment) and the name 'Seniors United Party of Australia'.

Max considers 'Australia Party' and 'Seniors United Party of Australia' so nearly resembles 'United Australia Party' that they are likely to be confused with, or mistaken for, or suggests a connection or relationship exists where such a connection or relationship does not in fact exist.

The Party's response to its name included that:

- The matters raised in the objection do not satisfy the requirements s 129(1)(d) of the Electoral Act;
- If the finding in *Woollard and Australian Electoral Commission and Anor [2001]* (Woollard) is applied to the name of the party, the generic words "United" and "Australia" cannot be "locked up". On this basis the party submits that the use of these words in both the 'United Australia Party' and 'Seniors United Party of Australia' cannot be sufficient to create a real risk of confusion in the elector that is contemplated by s 129(1)(d) of the Electoral Act;
- The name 'United Australia Party' is in a particular and distinct form that has been protected as a trademark since 30 September 2012;
- In respect of comparison of the name 'United Australia Party' with 'Seniors United Party of Australia', the words 'Seniors' and 'of', and the placement of those words are sufficient to aurally and visually distinguish the two names as separate entities without the risk of confusion or mistake; and
- The name does not appear on a ballot paper in isolation. Ballot papers include the name of a candidate, the name or abbreviation of the registered political party that endorsed the candidate and the party's logo. On this basis the party submits that such an entry on the ballot paper is visually distinguishable from the entry of other candidates so that there is no real chance to create confusion or mistake on the part of the elector.

The proposed abbreviation for 'Australia Party/Give It Back' of 'Australia Party' is not registered on the Register. Regardless, the AEC considers that the words 'United', 'Australia' and 'Party' when read together provide meaningful information to an elector beyond the words 'Australia' and 'Party'. The AEC also considers that the words 'United', 'Australia' and 'Party' when read together provide sufficient differentiation from 'Seniors United Party of Australia' and the names and abbreviations of all other registered parties that include the words 'Australia' or 'Party'.

The Administrative Appeals Tribunal (AAT) in *Woollard* decided that the proposed name 'liberals for forests', when considered in its entirety, emphasised a specific issue which made it different enough from 'Liberal Party of Australia' to allow an elector to differentiate between the two names.

In consideration of the test outlined in Woollard, there is a “resemblance” between the name ‘United Australia Party’ and the other party names and abbreviations identified on the Register that contain the words ‘United’ or ‘Australia’. For example, it can be said there is a resemblance between the ‘United Australia Party’ and the ‘Seniors United Party of Australia’. This resemblance is limited to the generic word ‘Australia’ and the word ‘United’. However, based on the information communicated to an elector by additional words such as ‘Seniors’, the AEC does not consider there is a real chance flowing from the resemblance that an elector would mistake ‘United Australia Party’ with one of the names or abbreviations currently on the Register. Nor is there a real chance an elector may think the name ‘United Australia Party’ is the same as the name or abbreviation of a registered party. In a situation where an elector is preparing to mark a ballot paper that contains the Party’s proposed name, ‘United Australia Party’, and another party name or abbreviation that contains the words ‘Australia’, or ‘United’, there is not a real chance that an elector would be left uncertain about “which name attaches to which organisation”<sup>1</sup>.

### **Findings of Fact**

On the material before me, I make the following findings:

The Party name ‘United Australia Party’:

- Does not comprise more than 6 words;
- Is not obscene;
- Is not the name, or an abbreviation or acronym of the name of another political party (not being a political party that is related to the Party) that is a registered political party;
- Does not so nearly resemble the name, abbreviation or acronym of the name of another political party (not being a political party that is related to the Party) that is a recognised political party that is likely to be confused with or mistaken for that name or that abbreviation or acronym;
- Is not one that a reasonable person would think suggests a connection or relationship exists between the Party and a registered party;
- Does not comprise the words “Independent Party”;
- Does not contain the word “Independent” and the:
  - Name, or abbreviation or acronym of the name of a recognised political party; or
  - Matter that so nearly resembles the name or an abbreviation or acronym of a recognised political party that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym.

Accordingly, on the basis of the materials before me, I am satisfied that the proposed name meets the requirements of section 129 of the Electoral Act.

### Party abbreviation – ‘UAP’

On 25 September 2018, Max submitted written particulars objecting to the Party’s proposed abbreviation in response to the subsection 132(1) notice published on 31 August 2018.

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<sup>1</sup> *Woollard and Australian Electoral Commission and Anor [2001] AATA 166*, paragraph 44.

On 20 November 2018, the Party submitted a reply to the AEC under subsection 132(5) of the Electoral Act.

### **Response to matters raised in written particulars**

Max states that the Party's abbreviation, 'UAP', is likely to be confused with or mistaken for another party's name, abbreviation or acronym (s 129(1)(d) of the Electoral Act)<sup>2</sup> and that a reasonable person would think the abbreviation or acronym suggests a connection or relationship exists between the parties (s 129(1)(da) of the Electoral Act)<sup>3</sup>.

In his objections to the Party's proposed abbreviation, Max refers to the abbreviation or acronym of four parties – 'Rise Up Australia Party' – registered abbreviation 'RUA', 'Health Australia Party' – registered abbreviation 'HAP', Australia Party/Give It Up' – proposed abbreviation 'Australia Party' (which is not registered on the Register) and 'Seniors United Party of Australia' – registered abbreviation 'SUPA'.

Max further states in relation to the Party's proposed abbreviation, that:

"The aforementioned items are not dissimilar enough for a reasonable person to reliably and consistently reach the conclusion that no relationship or connection exists".

The Party's response to its abbreviation included that:

- The matters raised in the objection do not satisfy the requirements for refusal of an abbreviation under s 129(1)(d) of the Electoral Act;
- The abbreviation 'UAP' is in a particular and distinct form that has been protected as a trademark since 30 September 2012;
- Comparing the abbreviation 'UAP' with 'SUPA', the addition of the letter 'S' and the difference in the arrangement of the letters 'U', 'A' and 'P' between the two abbreviations are sufficient to aurally and visually distinguish the two abbreviations as separate entities without the risk of confusion or mistake;
- Comparing the abbreviation 'UAP' and 'HAP', the two abbreviations are aurally and visually distinct as emanating from separate entities without the risk of confusion or mistake; and
- The abbreviation does not appear on a ballot paper in isolation. Ballot papers include the name of a candidate, the name or abbreviation of the registered political party that endorsed the candidate and the party's logo. On this basis the party submits that such an entry on the ballot paper is visually distinguishable from the entry of other candidates so that there is no real chance to create confusion or mistake on the part of the elector.

The proposed abbreviation, 'UAP', is not the acronym of the name of another political party on the Register.

In consideration of the test outlined in Woollard, there is only a limited "resemblance" between the abbreviation 'UAP' and the other party abbreviations identified on the Register by Max. Only the abbreviation for 'Seniors United Party of Australia', registered as 'SUPA',

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<sup>2</sup> Refer to objections 30, 36, and 42 (summarised in [Attachment C](#)).

<sup>3</sup> Refer to objections 38 and 45 (summarised in [Attachment C](#)).

includes the letters 'U', 'A' and 'P'. The AEC considers that the additional letter 'S' and the different ordering of the letters 'U', 'P' and 'A' makes the Party's proposed abbreviation sufficiently different from 'SUPA' and the other abbreviations on the Register.

As additional information is communicated to an elector by different letters, or the additional letter 'S', and the order of letters as they appear such as 'SUPA', the AEC does not consider there is a real chance flowing from the resemblance that an elector would mistake 'UAP' with one of the acronyms or abbreviations currently on the Register. Nor is there a real chance an elector may think the abbreviation 'UAP' is the same as the abbreviation of a registered party. In addition, in a situation where an elector is preparing to mark a ballot paper that contains the Party's proposed abbreviation 'UAP' there is not a "real chance" that an elector would be left uncertain about "which abbreviation attaches to which organisation" <sup>4</sup>.

### **Findings of Fact**

On the material before me, I make the following findings:

The Party abbreviation 'UAP':

- Does not comprise more than 6 words;
- Is not obscene;
- Is not the name, or an abbreviation or acronym of the name of another political party (not being a political party that is related to the Party) that is a registered political party;
- Does not so nearly resemble the name, abbreviation or acronym of the name of another political party (not being a political party that is related to the Party) that is a recognised political party that is likely to be confused with or mistaken for that name or that abbreviation or acronym;
- Is not one that a reasonable person would think suggests a connection or relationship exists between the Party and a registered party;
- Does not comprise the words "Independent Party";
- Does not contain the word "Independent" and the:
  - Name, or abbreviation or acronym of the name of a recognised political party; or
  - Matter that so nearly resembles the name or an abbreviation or acronym of a recognised political party that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym.

Accordingly, on the basis of the materials before me, I am satisfied that the proposed abbreviation meets the requirements of section 129 of the Electoral Act.

### Party logo

On 25 September 2018, Max submitted written particulars objecting to the Party's proposed logo in response to the subsection 132(1) notice published on 31 August 2018.

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<sup>4</sup> *Woollard and Australian Electoral Commission and Anor [2001] AATA 166*, paragraph 44.

On 20 November 2018, the Party submitted a reply to the AEC under subsection 132(5) of the Electoral Act.

### **Response to matters raised in written particulars**

Max submitted 14 objections against the Party's logo. Max states that the Party's logo is likely to be confused with or mistaken for another party's logo (s 129A(c) of the Electoral Act) and is one that a reasonable person would think suggests a connection or relationship exists between the Party and a registered political party "where such a connection or relationship does not in fact exist" (s 129A(d) of the Electoral Act). Max's objections refer to the logos of six registered party logos – Animal Justice Party; Citizens Electoral Council of Australia; Australian Conservatives; Jacqui Lambie Network; Rise Up Australia Party and #Sustainable Australia. Max also objected to the proposed new logo for Australian Country Party which was part of a concurrent application from the Australian Country Party to change its name and logo and enter an abbreviation into the Register that is currently under assessment. In support of his objections under s 129A(c) and (d), Max refers to some or all of the logos having the following similarities:

- "The printed size of [the] logos [being] 10mm by 10mm";
- "Predominantly black graphic of Australia";
- "An Australian flag inscribed by a graphic of Australia";
- "A figure of Australia inscribed by a circle, and a figure of Australia inscribed by a circle featuring text (which some voters may not find legible on the ballot paper)";
- The logos being "not dissimilar enough from one another to avoid any and all confusion or mistakes on the part of voters"; and
- The logos being "viewed for a short period or at a glance, for example: while filling out a ballot paper".

On 6 November 2018, the objections were published on the AEC website and forwarded to the Registered Officer of the Party, for response as required under s 132(5) of the Electoral Act. On 20 November 2018, the Party submitted a reply to the AEC under subsection 132(5) of the Electoral Act.

The Party's response to the objections to its logo included that:

- The objection fails to set out supportable grounds under which the registration of the logo should be refused under s 129A(c) and s 129A(d);
- In consideration of the test outlined in Woollard, the party's logo, which is an image of Australia, cannot be "locked up". On this basis the party submits that the use of an image of Australia in a logo cannot be sufficient to create a real risk of confusion in the elector that is contemplated by s 129A of the Electoral Act;
- The logos include an image of Australia (with imagery of the Australian Flag), in a circle and includes the party name, "UNITED AUSTRALIA PARTY" and the words "MAKE AUSTRALIA GREAT". This logo is in a particular and distinct form that is visually distinguishable from that of other parties; and
- The logo does not appear on a ballot paper in isolation. Ballot papers include the name of a candidate and, if applicable, the name or abbreviation of the registered political party that endorsed the candidate. On this basis the party submits that such an entry on the ballot paper is visually distinguishable from the entry of other candidates so that there is no real chance to create confusion or mistake on the part of the elector.

All of the party logos identified by Max share one design similarity with the Party's logo – a black, or partly black, image of Australia. However, the image of Australia is a generic image that is used by several registered political parties and a wide variety of organisations and entities. For example, searches of trademarked and licenced logos undertaken by a service provider engaged by the AEC identified a number of organisations' logos that incorporate an image of Australia.

As discussed above, the use of an image of Australia as a component in logos, branding and other products is widespread across many types of organisations. Max's statement that when the Party's logo is "viewed for a short period or at a glance" by an elector it "is one that a reasonable person would think suggests a connection or relationship exists between the applicant and a registered political party" is not supported by the evidence. Each logo is visually different in style, shape, the placement of the black or partly black colour or has different text included in the design. The text included within the Party's logo, "United Australia Party" and "Make Australia Great", further differentiates it from the other logos (even taking into account Max's view that some people may not find it to be legible on the ballot paper).

Max states that the Party's logo presents a likelihood of being confused with or mistaken for the other parties' logos because "the printed size of [the] logos is 10mm by 10mm". This is a technical specification that all logos must meet to obtain registration<sup>5</sup> for the purpose of reproducing the image of party logos on ballot papers and is not a valid basis for refusing the registration of a party logo.

### **Findings of Fact**

On the material before me, I make the following findings:

The logo set out in the application for registration:

- Is not obscene;
- Does not so nearly resemble the logo of any other person that it is likely to be confused with or mistaken for that logo;
- Is not one that a reasonable person would think suggest that a connection or relationship exists between the applicant and a registered political party if that connection or relationship does not in fact exist;
- Does not comprise the words "Independent Party";
- Does not contain the word "Independent" and the:
  - Name, or abbreviation or acronym of the name of a recognised political party;
  - or
  - Matter that so nearly resembles the name or an abbreviation or acronym of a recognised political party that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym;
- Is in black and white;
- Is in a vector graphic in electronic format;
- Is 100% black in a CMYK colour space;

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<sup>5</sup> The requirements for logos are set out in section 126(2AA) of the Electoral Act and in the *Commonwealth Electoral (Logo Requirements) Determination 2016*.

- Is contained within a frame of 10 mm by 10 mm;
- Is able to be reproduced correctly within a frame of 7 mm by 7 mm;
- Does not include live text, transparency or overprinting and custom halftone, transfer curve or colour profile settings; and
- Is in a PDF file, of less than 5 megabytes, that complies with International Standard ISO 32000-1:2008 as in force at the time this instrument commences.

Accordingly, on the basis of the materials before me, I am satisfied that the proposed logo submitted with the Party's application meets the requirements of subsection 126(2AA) and section 129A of the Electoral Act and the specifications described in *Commonwealth Electoral (Logo Requirements) Determination 2016*.

### **Your review rights**

Under subsection 141(2) of the Electoral Act, a person (including an organisation) affected by the decision who is dissatisfied with the decision may make a written application to the Electoral Commission for internal review of this decision within 28 days after the day on which the decision first comes to the notice of that person. There is no fee payable for requesting an internal review.

Requests for review of this decision should be addressed to Mr Tom Rogers, Australian Electoral Commissioner, and emailed to [commission.secretariat@aec.gov.au](mailto:commission.secretariat@aec.gov.au) or by post to Locked Bag 4007, Canberra City ACT 2601.

### How do I request an internal review?

In accordance with subsections 141(2) and 141(3) of the Electoral Act, an application for review must:

- be in writing;
- specify the name of the applicant; and
- set out the reasons for making the application.

If you wish to apply for additional time beyond the 28 days to make an application for review of the delegate's decision, please also include the reasons for the application for additional time.

### Who conducts an internal review?

The Electoral Commission, which is comprised of three members, the Australian Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews. Under subsection 141(4) of the Electoral Act, the Electoral Commission review an application for review and make a decision to either:

- affirm the decision under review;
- vary the decision under review; or
- set aside the decision under review and make a decision in substitution for the decision set aside.

### What can I do if I disagree with the outcome of an internal review?

If an internal review decision has been made by the Electoral Commission and you do not agree with that decision, a person whose interests are affected, and who is dissatisfied with the decision made by the Electoral Commission may apply to the AAT for an external merits review of the decision. More information on how to apply to the AAT and any applicable fees can be found on its website: [www.aat.gov.au/applying-for-a-review/how-to-apply](http://www.aat.gov.au/applying-for-a-review/how-to-apply).

Freedom of Information

Under the *Freedom of Information Act 1982* (the FOI Act) any person has the right to request access to documents held by the AEC. For more information about access to documents under the FOI Act please visit the AEC's "Access to AEC information" webpage at: [www.aec.gov.au/information-access/index.htm](http://www.aec.gov.au/information-access/index.htm).

Should you have any further queries regarding party registration, please contact the AEC on 02 6271 4552, visit [www.aec.gov.au](http://www.aec.gov.au) or email [fad@aec.gov.au](mailto:fad@aec.gov.au)

Yours sincerely

{signed}

Gabrielle Paten  
Assistant Commissioner  
Delegate of the Electoral Commission