

**NOTICE OF PARTY REGISTRATION DECISION  
APPLICATION TO REGISTER A NON-PARLIAMENTARY PARTY IN  
THE REGISTER OF POLITICAL PARTIES - APPROVED  
AUSTRALIAN DEMOCRATS**


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

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

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

**Decision**

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

Name of party:	Australian Democrats
Logo:	
Registered Officer:	Darren Mark Churchill
Registered Officer's address:	15 Bassett Street NAIRNE SA 5252
Does party seek election funding:	YES

**Materials I have taken into account**

In making this decision, I had regard to:

- the application to register as a non-Parliamentary party received by the AEC on 5 December 2018;
- the results of the testing of the Party's membership list conducted by the AEC in accordance with the sampling methodology developed by the Australian Bureau of Statistics;
- Part XI of the Electoral Act;
- written particulars received by the AEC in response to the notice under subsection 132(1) of the Electoral Act;
- the Party's response to written particulars received by the AEC;
- the Register of Political Parties of each Australian state and territory; and
- the AEC *Party Registration Guide*.

**Findings of Fact**

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

### Membership list

The membership list submitted by the Party contained 550 members. AEC staff cross-checked this membership list with the Commonwealth Electoral Roll (the Roll), as required by subsection 123(3) of the Electoral Act.

These searches identified that:

- two of the 550 submitted members were unable to be matched to the Roll;
- No members were duplicated within the membership list; and
- Four members supported the registration of other political parties.

On 14 January 2019, the Party elected to remove three members from the Party's membership list.

Accordingly, 541 of the 550 members on the list supplied by the Party were able to be matched to the Roll.

In accordance with the random sampling formula provided by the Australian Bureau of Statistics, a list of 541 members requires a random sample of 47 contactable members to confirm they are members of the Party, with up to six denials of membership, in order for me to have statistical confidence that the Party has 500 members.

The AEC attempted to contact 60 members, as some were unable to be contacted or provided a neutral response. Of the responses received, 47 members confirmed their membership, while no members denied membership of the Party.

Accordingly, I am satisfied the Party meets the requirements of paragraph 126(2)(ca) of the Electoral Act.

### Party constitution

A copy of the constitution of the Party accompanied the application as required by paragraph 126(2)(f) of the Electoral Act. 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.

Accordingly, 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* at subsection 123(1) of the Electoral Act, and in accordance with the definition of *political party* at section 4 of the Electoral Act.

### Party name

The Party name Australian Democrats:

- 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 recognised 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 it 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, I am satisfied on the materials before me that there is no basis to refuse the application for registration from the Australian Democrats under section 129 of the Electoral Act.

#### Party logo

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 suggests 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;
- 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*.

### Other procedural application requirements

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. The application for registration as a political party:

- was in writing, signed by the secretary of the Party and by the registered officer 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 each applicant makes the application; and
- was accompanied by a fee of \$500.

On 20 February 2019, I determined that the application had passed the initial assessment and approved the advertisement of the application under paragraph 132(1)(c) of the Electoral Act. A notice of the application was advertised on the AEC website and in 10 major newspapers on 26 February 2019. The closing date for objections was 26 March 2019.

### **Matters raised in written particulars**

Written particulars were lodged by the Australian Democrats (Queensland Division) Incorporated which were assessed as addressing the requirements of section 132 of the Electoral Act and were published on the AEC website.

A summary of the objection submits that:

“We believe there are numerous problems with this application for party registration, including: a) the sufficiency of the notice of application for party registration, b) the status of the merged entity applying for registration, c) if there is continuity between the merged entity and the Australian Democrats, then the Party Constitution as put forward is either invalid or fraudulent, d) the Party Constitution upon which the application is based is contrary to the Australian Constitution, e) the application is contrary to trademark law, and f) the application is technically flawed.”

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

The Party responded to the objection submitted by the Australian Democrats (Queensland Division) Incorporated. The Party’s response to the objection submits that:

- the notice published by the AEC of the Party’s application for registration “complies in every respect with the relevant requirements as set out in the Electoral Act”;
- the Party “fails to see how [it] does not meet the definition” of an “organisation” for the purposes of subsection 4(1) of the Electoral Act;
- the Party’s constitution has been provided to the AEC as part of its application and satisfies paragraph 126(2)(f) of the Electoral Act;
- the contention that the Party’s application is contrary to the Australian Constitution “is not a ground for objection” under paragraph 132(2)(b) of the Electoral Act.

## **AEC consideration**

The grounds for a valid objection to an application for registration are set out in paragraph 132(2)(b) of the Electoral Act. I agree with the Party's response to the objection that contrariness with the Australian Constitution is not a valid ground for an objection to an application for registration under paragraph 132(2)(b) of the Electoral Act.

I consider that the matters raised in the objection relating to the requirements for the publication of a notice of the Party's application under paragraph 132(1)(c) and paragraph 132(2)(a) of the Electoral Act are outside of the objection mechanism contained in paragraph 132(2)(b) of the Electoral Act.

The objection to the Party's application states that the Party's constitution is an "invalid document" and therefore the requirement set out in paragraph 126(2)(f) of the Electoral Act that the Party provide "a copy of the constitution of the party" has not been met. The objection states further that, "the Electoral Act does not stipulate what is to be included in a Constitution, apart indicating [*sic*] at Section 123 that the Constitution should set out the aims of the party".

The response provided to the AEC by the Australian Democrats states that, consistent with paragraph 126(2)(f) of the Electoral Act, "the constitution has been provided and has been published on the AEC website".

When undertaking an initial assessment of the Party's application, the AEC assessed the Party's constitution against the requirements of the Electoral Act. A delegate of the Electoral Commission determined that the Party's constitution met the requirements for a constitution set out in section 4 and subsection 123(1) of the Electoral Act. Namely, that the Party's constitution is in writing and sets out the aims of the Party. The delegate determined that the Party's constitution includes one of the objectives of the Party as to "endorse candidates for Senate and House of Representatives elections".

I consider the Party to be an "organisation" and a "political party" for the purpose of subsection 4(1) of the Electoral Act.

The objection states that the Party's application is contrary to trademark law, as:  
"the Australian Democrats (Queensland Division) Incorporated is joint holder of trademark rights to the name Australian Democrats, and we do not consent to the use of those words in the current application for party registration of the merged entity".

I consider that any joint ownership of a trademark is not a valid ground for an objection under subsection 129(1) of the Electoral Act.

However, paragraph 129(1)(c) of the Electoral Act prohibits the registration of a party name that is the name of a recognised party. Subsection 129(2) of the Electoral Act defines "recognised political party". The Australian Democrats (Queensland Division) Incorporated is not a "Parliamentary party" or a "registered party". In addition, the Australian Democrats (Queensland Division) Incorporated is not registered by a state or territory electoral commission. On this basis, it is not "registered or recognised for the purposes of the law of a

State or Territory". I do not consider the Australian Democrats (Queensland Division) Incorporated a "recognised political party" under paragraph 129(1)(c) of the Electoral Act, and there is no basis to refuse the Party's application under subsection 129(1) of the Electoral Act.

Accordingly, I am satisfied on the materials before me that there is no basis to refuse the application for registration from the Australian Democrats under sub-paragraphs 132(2)(b) (i)-(iii) of the Electoral Act.

### **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 shall review an application 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 a person whose interests are affected, and who is dissatisfied with the decision made by the Electoral Commission, may apply to the Administrative Appeals Tribunal (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 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).

*(signed)*

Gabrielle Paten  
Assistant Commissioner  
Delegate of the Electoral Commission

7 April 2019