

**NOTICE OF PARTY REGISTRATION DECISION
APPLICATION TO REGISTER A PARLIAMENTARY PARTY IN THE
REGISTER OF POLITICAL PARTIES (THE REGISTER) APPROVED
FRASER ANNING'S CONSERVATIVE NATIONAL PARTY**

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 Fraser Anning's Conservative National Party (the Party) as a Parliamentary party in 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:	Fraser Anning's Conservative National Party
Abbreviation of name:	<i>(Withdrawn by the Party on 2 April 2019)</i>
Registered Officer:	Boston White
Registered Officer's address:	Level 36, Waterfront Place 1 Eagle Street BRISBANE QLD 4000
Does party seek election funding:	YES

Materials I have taken into account

In making this decision, I have had regard to:

- the application to register as a Parliamentary party received by the Australian Electoral Commission (AEC) on 23 November 2018;
- a letter from Senator Fraser Anning, Independent Senator for Queensland, declaring that he is a member of the Party and not a member of any other registered political party;
- Part XI of the Electoral Act;
- the Register of Political Parties of each Australian state and territory;
- written particulars received by the AEC in response to the subsection 132(1) notice;
- the replies to the written particulars submitted to the AEC by the Party under subsection 132(5) of the Electoral Act;
- a letter from Senator Fraser Anning of 2 April 2019 withdrawing the proposed abbreviation of the Party's name from the application;
- Administrative Appeals Tribunal (AAT) decision of *Woollard and Australian Electoral Commission and Anor [2001] AATA 166* ('Woollard');
- AAT decision of *The Fishing Party and Australian Electoral Commission and The Australian Fishing and Lifestyle Party [2009] AATA 170* ('Fishing Party'); and

- the AEC *Party Registration Guide*.

Findings of Fact

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

Parliamentary party

As part of the application, the AEC received a letter from Senator Fraser Anning declaring that he is a member of the Party, and not a member of any other registered political party. 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

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.

Party name

On 2 April 2019, the Party submitted an application to withdraw the Party's proposed abbreviation from the registration application (after the objection period had closed). Therefore I have only considered if the Party name "Fraser Anning's Conservative National Party" met the requirements under s 129 of the Electoral Act. The Party's name:

- 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", or 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.

Written particulars received objecting to the Party's application

Legislative framework – written particulars

Subsection 132(7) of the Electoral Act provides that the Electoral Commission shall not register a political party unless it has considered any particulars submitted objecting to a party's registration, and any reply to particulars that may have been submitted. Section 132 of the Electoral Act also outlines the requirements for submitting and processing objections to an application.

Paragraph 132(2)(b) of the Electoral Act provides that a person can only submit written particulars objecting to an application to register a political party on the following grounds:

- (i) the application does not relate to an eligible political party; or
- (ii) the application has not been made in accordance with section 126 of the Electoral Act; or
- (iii) the application should be refused under section 129 of the Electoral Act; or
- (iv) the Electoral Commission should refuse to enter a logo of the Party under section 129A of the Electoral Act.

The AEC received 14 written particulars objecting to the registration of the Party: A delegate of the Electoral Commission made a decision that 11 of the written particulars addressed the requirements of paragraph 132(2)(b) of the Electoral Act, and that three did not. The 11 written particulars that met the requirements of paragraph 132(2)(b) were submitted by:

1	Caitlin
2	Warren
3	Jessica
4	David
5	Michael and Gregory
6	The Nationals - NSW
7	Mozart
8	Australian Conservatives
9	The National Party of Australia
10	Betty
11	Liberal National Party of QLD

The AEC published the 11 written particulars addressing paragraph 132(2)(b) on the AEC website and provided the written particulars, including a notice inviting a reply, to Mr Boston White, Registered Officer of the Party. Mr White submitted responses to all 11 written particulars and the Party's responses were published on the AEC website in accordance with subsection 132(6) of the Electoral Act.

Objections to the Party's application

All objectors consider the application from the Party should be refused under section 129 of the Electoral Act.

Michael and Gregory also requested verification “that the application for registration contains the required list of the names of the 500 members of the party as stated in Section 126 of the Commonwealth Electoral Act.”

The National Party of Australia raised two points of law regarding the notice requirements set out in subsection 132(2) which were assessed as falling outside of the objection mechanism.

The objections to the proposed party name ‘Fraser Anning’s Conservative National Party’ and proposed abbreviation of its name ‘The Conservative Nationals’ refer to one or more of the name or abbreviation of the following registered parties:

- Australian Conservatives (name);
- The Conservatives (abbreviation);
- National Party of Australia (name);
- The Nationals (abbreviation);
- National Party of Australia – N.S.W. (name);
- National Party (abbreviation);
- Liberal National Party of Queensland (name); and
- LNP (abbreviation).

Overall the objections submitted set out that:

- the Party is not related to any of the recognised parties listed above;
- the proposed name and/or abbreviation is likely to be confused with or mistaken for the name or abbreviation of one of these parties;
- the name and/or abbreviation of the Party is one that a reasonable person would think suggests that a connection or relationship exists between the Party and a registered party when that connection or relationship does not exist; and
- that voters may be confused between the Party and an unrelated recognised party.

The objections submitted on behalf of the Australian Conservatives, the National Party of Australia, National Party of Australia - N.S.W. and Liberal National Party of Queensland advise that the Party is not a related political party of any of those parties.

The objections from Mozart and the National Party of Australia also refer to the AAT’s decision in Woollard as supporting that the Party’s application should be refused under section 129 of the Electoral Act.

Response to objections to the Party's application

The Party submitted a response to each of the 11 objections received. In all of its responses the Party made reference to the following:

- the AAT's decisions in Woollard and Fishing Party;
- the AAT in Woollard determining that:
 - 'liberals for forests' could be registered as a party name as it was not likely to be confused with the Liberal Party of Australia;
 - words such as 'liberal', 'labour', 'democrat', 'national', 'Christian', 'progressive' and 'socialist' were generic; and
 - the use of generic words is not likely to be either confused with, or thought related, to any other party also using generic words in a different combination;
- the AAT in Fishing Party determining that the addition of words 'and Lifestyle' after the words 'Australian Fishing' were sufficient to differentiate it from 'The Fishing Party';
- the Liberal Democratic Party's federal registration as a political party despite objections from the Liberal National Party and Liberal Party of Australia;
- the federal registration of the Democratic Labour Party as a political party despite objections from the Australian Labor Party;
- the name 'Fraser Anning's Conservative National Party' and abbreviation 'The Conservative Nationals' should be registered as the words 'conservative' and 'national' are generic and not proprietary names of any one party;
- the combination of words in the Party name "is even less similar to 'the National Party', 'the Liberal National Party' and 'Australian Conservatives' than the Liberal Democrats were to the Liberal Nationals or the Democratic Labour Party or Labor Party were to the Australian Labor Party" and less likely to be "confused" with another party's name or abbreviation than these were; and
- "no reasonable person would think a relationship existed between Fraser Anning's Conservative National Party (AKA the Conservative Nationals) and the abovementioned parties, any more than they would imagine that the Liberal Democratic Party and the Liberal National Party or the Democratic Labour Party and the Australian Labor Party were connected."

AEC consideration - assessment of the Party's proposed name

On 2 April 2019, the Party submitted an application to withdraw the Party's proposed abbreviation from the registration application

When undertaking an initial assessment of the Party's application the AEC assessed the Party's proposed name (noting the proposed abbreviation was subsequently withdrawn) against the requirements of section 129 of the Electoral Act; reviewed the Register and the registers for each state and territory; and identified seven recognised political parties on the Register* that included the same or similar words in its name or abbreviation to that of the Party:

Name	Abbreviation
Australian Conservatives	Conservatives
Liberal National Party of Queensland	LNP
National Party of Australia	The Nationals
National Party of Australia - N.S.W.	The Nationals
National Party of Australia - Victoria	The Nationals
National Party of Australia (S.A.) Inc.	National Party
National Party of Australia (W.A.) Inc	The Nationals

* Please note that some of the parties listed also have related parties registered on state or territory party registers.

In Woollard, the AAT found that the proposed name 'liberals for forests', when considered in its entirety, emphasised a specific issue which made it different enough from the Liberal Party of Australia, an already registered name, to allow an elector to differentiate between the two. In the later Fishing Party decision, the AAT found that the additional words 'and Lifestyle' were sufficient to "aurally and visually distinguish the two parties as separate entities without risk of confusion or mistake, and would prevent a reasonable person from thinking that there was any connection or relationship between the two parties".

Proposed name: Fraser Anning's Conservative National Party

The words 'Fraser', 'Anning's', 'Conservative', 'National' and 'Party' when read together provide meaningful information to an elector beyond the words 'Conservatives', 'The', 'Nationals' and 'Party' (the Party expressed a similar opinion in its responses to objections).

Based on the information communicated to an elector by additional words such as 'Fraser' and 'Anning' I do not consider there is a real chance flowing from the resemblance that an elector would mistake the Party's proposed name of 'Fraser Anning's Conservative National Party' with one of the names or abbreviations currently on the Register (the Party expressed a similar opinion in its responses to objections).

In a situation where an elector is preparing to mark a ballot paper that contains the Party's proposed name, 'Fraser Anning's Conservative National Party', and another party name or abbreviation that contains the words 'Conservative' or 'National', there is not a real chance that an elector would be left uncertain about which name attaches to which organisation (the Party expressed a similar opinion in its responses to objections).

Similar to the supporting evidence taken into account by the AAT in the Fishing Party determination, the words 'Fraser', 'Anning' and 'Conservative' are sufficient to "aurally and visually distinguish" the Party's name and abbreviation from other names and abbreviations on the ballot paper.

As a result, the proposed name and abbreviation of the Party does not so nearly resemble the name or abbreviation of another recognised political party that it is likely to be confused with or mistaken for that name, abbreviation or acronym. Additionally, a reasonable person would not think the proposed name or abbreviation suggests that a connection or relationship exists between the party and a registered party.

Accordingly, I am satisfied on the materials before me that there is no basis to refuse the application for registration from the Party under section 129 of the Electoral Act.

AEC consideration - assessment of membership

A Parliamentary party is considered to have met the membership requirement for an application should it satisfy the definition of a Parliamentary party under section 123 of the Electoral Act:

***Parliamentary party** means a political party at least one member of which is a member of the Parliament of the Commonwealth.*

As the Party's application was accompanied by a letter from Senator Fraser Anning on his Parliamentary letterhead confirming he is a member of the Party and not a member of any other political party I am satisfied the Party's application meets the membership requirement for the application and the legislative intent of paragraph 126(2)(ca) of the Electoral Act.

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 Senator Fraser Anning who declared that he is a member of the Party, and not a member of any other registered political 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.

On 7 January 2018, a delegate of the Electoral Commission 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 arranged to be advertised on the AEC website and in 10 major newspapers on 11 January 2018.

On 10 January 2019, the Registered Officer of the Party, Mr Boston White, was notified that the Party's application was to be advertised the following day. Mr White requested that the

advertisements be amended or withdrawn so the Party could make an administrative amendment to the Party's application. Due to the late request by the Party, the AEC was unable to withdraw the advertisements from the Sydney Morning Herald and The Age, as these publications had already gone to print.

On 11 January 2019, the Party submitted a variation of its application containing administrative amendments.

On 16 January 2019, a delegate of the Electoral Commission approved the re-advertisement of this application under subsection 132(1) of the Electoral Act and a notice of the application was advertised on the AEC website and in 10 major newspapers, circulating generally in each state and territory, on 24 January 2019. The closing date for lodging objections to the application was 24 February 2019.

The AEC received 11 written particulars objecting to the registration of the Party which addressed the requirements of paragraph 132(2)(b) of the Electoral Act. The Party responded to all 11 objections against its application.

On 2 April 2019, after the objection period had closed, the AEC received a letter from Senator Fraser Anning requesting to withdraw the proposed abbreviation of the Party's name from the application.

For the reasons outlined above, I approve the application from Fraser Anning's Conservative National Party for registration as a Parliamentary party in the Register, as a delegate for the purposes of Part XI 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 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.

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.

Should you have any further queries regarding party registration, please contact the AEC on 02 6271 4552, visit www.aec.gov.au or email fad@aec.gov.au.

Gabrielle Paten
Assistant Commissioner
Delegate of the Electoral Commission

2 April 2019