

**NOTICE OF DECISION ON PARTY REGISTRATION  
APPLICATION TO CHANGE A PARTY NAME AND ENTER A LOGO  
IN THE REGISTER OF POLITICAL PARTIES (THE REGISTER)  
APPROVED  
TIM STORER INDEPENDENT SA PARTY**

**Notice of decision under subsection 134(6) of the *Commonwealth Electoral Act 1918*  
and Statement of Reasons**

I am writing in accordance with subsection 134(6) of the *Commonwealth Electoral Act 1918* (the Electoral Act) to notify you of the determination of the application to change the name and enter a logo of the Tim Storer Independent SA Party (the Party) in the Register.

I am authorised to determine this application under section 134 of the Electoral Act as a delegate of the Electoral Commission.

**Decision**

I have decided to approve the application to change the name and enter a logo of the Party. Consequently, I have entered the following details in the Register

Name of party:  
Party logo:

Tim Storer Independent SA



My reasons appear below.

**Materials I have taken into account**

In making my decision, I have had regard to:

- the application to change the name and enter a logo of the Party in the *Register of Political Parties* received by the Australian Electoral Commission (AEC) on 13 February 2019;
- 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) of the Electoral Act notice published on the AEC's website from Max and Greg;
- the reply submitted to the AEC by the Party under subsection 132(5) of the Electoral Act to the written particulars of Max and Greg published on the AEC's website;
- the *Register of Political Parties* of each Australian state and territory; and
- the AEC's *Party Registration Guide*.

## Findings of Fact

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

### Party name

The Party's proposed name – Tim Storer Independent SA:

- 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";
- contains the word "Independent" but not:
  - 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 Party name meets the requirements of section 129 of the Electoral Act.

### Party logo

The logo set out in the application:

- 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;
- 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 Party logo 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*.

### **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 (or a logo in the case of point (iv)) on the following grounds:

- (i) the application does not relate to an eligible political party; or
- (ii) the application is not 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 in the Register under section 129A of the Electoral Act.

*Note: subparagraph 132(2)(b)(iv) only applies to applications to register a political party that includes a logo and applications to enter or change a logo in the Register.*

The AEC received two written particulars objecting to the Party's application. A delegate of the Electoral Commission made a decision that the two written particulars, received by Max and Greg, addressed the requirements of paragraph 132(2)(b) of the Electoral Act.

The AEC published the written particulars received by Max and Greg on the AEC website and provided the written particulars, including a notice inviting a reply, to Senator Timothy Storer, Registered Officer of the Party. The Party submitted a response which responded to both of the written particulars and the Party's response was published on the AEC website in accordance with subsection 132(6) of the Electoral Act.

#### Objection to the Party's proposed name - Max

Max objected to the application on the basis it should be refused under section 129 of the Electoral Act. The written particulars from Max included a signature, specified an address, and objected to at least one of the grounds under paragraph 132(2)(b) of the Electoral Act.

Max's evidence in support of his objection to the Party's application included:

- "I object to the application to register 'Tim Storer Independent SA Party' into the party register on the grounds that it contains the word Independent which is prohibited under S129(e) of the *Commonwealth Electoral Act 1918*".

Max does not address the Party's proposed logo in the objection.

#### Response from the Party to Max's objection

In its response to the written particulars submitted by Max, the Party stated the following:

- "It is clear from clause 129(1)(e) that the purpose of the clause is to avoid an existing political party from being confused with an applicant political party, by way of the applicant inserting the words "Independent" alongside or amongst words which suggest another party";
- the intent of the clause is not to prevent a political party from using the word "Independent" in its name, but rather, to prevent a political party from claiming that it is an 'independent' arm or relative of an existing political party, or even that it is that other party that it is referencing"; and
- if the AEC were to register the name of the "Tim Storer Independent SA Party", it would not cause confusion between that party and any other party, because there is no other party bearing the name 'Tim Storer'".

#### Consideration – objection received from Max

The initial assessment of the Party's application to register as a Parliamentary party took into account the following legal advice:

- "Section 129(1)(e) requires that the application comprise the words 'Independent Party' or comprise the word 'Independent' and one or other of the features listed in paragraphs (i) and (ii) of section 129(1)(e)"; and
- accordingly, the mere inclusion of the words 'Independent' or 'Independent Party' are not grounds to refuse to register a name of a political party."

Although the Party's proposed name includes the word 'Independent' it is not:

- the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)) – as described in subparagraph 129(1)(e)(i); and
- does not contain matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)) that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be – as described in subparagraph 129(1)(e)(ii).

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

#### Objection to the Party's proposed logo - Greg

Greg objected to the application on the basis it should be refused under section 129A of the Electoral Act. The written particulars from Greg included a signature, specified an address, and objected to at least one of the grounds under paragraph 132(2)(b) of the Electoral Act.

Greg's evidence in support of his objection to the Party's application included:

- "I object to the proposed logo as 'is likely to be confused with, or mistaken for, the logo of another person' (Limitation in the Choice – Party Registration Guide, AEC)";

- “appears to be a stylised map of Tasmania”;
- “could appear to highlight a local government area of Tasmania called Circular Head”;
- “the initial ‘ts’ on a stylised map of Tasmania could be confused with ‘TAS’”; and
- nothing in the logo conveys that this represents a potential political party in South Australia”.

Greg also submitted nine images in support of his objection.

#### Response from the Party to Greg’s objection

In its response to the written particulars submitted by Greg, the Party stated the following:

- “the triangle alone does not concern the objector, because there are many other logos – including party logos, such as that of the Greens – which are triangles”;
- “most Australians would not know of ‘Circular Head’ and that even if they did, that they would not confuse the green triangle in the top left hand corner of the proposed logo with Circular Head”; and
- “most Australians do know that “TAS” stands for Tasmania. By the same token, most Australians would therefore not recognise “TS” as standing for Tasmania”.

#### Consideration – objection received from Greg

Greg states that the Party’s proposed logo:

- “so nearly resembles the logo of any other person that it is likely to be confused with or mistaken for that logo” (paragraph 129A(c) of the Electoral Act).

In the Administrative Appeals Tribunal’s (AAT’s) decision of in *Watson v AEC and Anor* (Watson) of 20 December 2018, the AAT stepped out the process for interpreting and applying paragraph 129A(c) of the Electoral Act. The Tribunal described this as a three step test:

1. Identify the party logo;
2. Does the party logo resemble the logo of “any other person”; and
3. If the answer to question (2) is yes, does the logo so nearly resemble the logo of any other person that it is likely to be confused with or mistaken for that logo.

In applying the three step test described in *Watson* to the evidence submitted by Greg in support of his objection to the Party’s logo, I consider that:

1. Greg has identified the logo set out in the Party’s application;
2. The Party’s proposed logo **does resemble** the logo of “any other person” (for the reasons detailed below); and
3. The Party’s proposed logo **does not so nearly resemble** the logo of any other person that it is likely to be confused with or mistaken for that logo (for the reasons detailed below).

#### *The Party’s proposed logo does resemble the logo of “any other person”*

The Party’s proposed logo has a similar shape to all of the images and logos identified by Greg – a triangular shape or a shape that is a stylised map of Tasmania.

*The Party's proposed logo does not so nearly resemble the logo of any other person that it is likely to be confused with or mistaken for that logo*

There are stylistic differences between the Party's proposed logo and the images and logos identified by Greg. For example, none of the images contain the letters 'ts' as the only text contained in its image. The images and logos identified by Greg contain different text to 'ts' which visually distinguishes them from the Party's proposed logo. I do not support the view that 'ts' is likely to be confused with or mistaken for 'TAS'.

Additionally, each image can be differentiated from the Party's proposed logo by variations in the styled images of the triangle and/or images of a map of Tasmania, the different designs, colour and/or text.

For these reasons I do not accept that the Party's proposed logo "does so nearly resemble the logo of any other person that it is likely to be confused with or mistaken for that logo".

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

#### Other procedural application requirements

The application to change the name of the Party and enter a logo of the Party:

- was in writing, signed by three members of the Party;
- set out the name and address of the applicants and particulars of the capacity in which each applicant makes the application; and
- was accompanied by a fee of \$500.

Accordingly, I am satisfied that the application meets the requirements of paragraph 134(1)(b) and subsection 134(2) of the Electoral Act.

For the reasons outlined above, I approve the application from the Tim Storer Independent SA Party to change a party's name and enter a logo 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](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 are 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 their 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)

Gabrielle Paten  
Assistant Commissioner  
Delegate of the Electoral Commission

7 April 2019