

**NOTICE OF PARTY REGISTRATION DECISION
APPLICATION TO REGISTER A PARTY IN THE REGISTER OF
POLITICAL PARTIES APPROVED
INDIGENOUS-ABORIGINAL PARTY OF AUSTRALIA**

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

1. I am writing in accordance with s 133(1) of the Electoral Act to notify you of the determination of the application to register Indigenous-Aboriginal Party of Australia ('the Party'), a non-Parliamentary party, in the *Register of Political Parties* ('the Register').
2. I am authorised to determine this application for party registration ('the Application') under Part XI of the Electoral Act as a delegate of the Electoral Commission.

Decision

3. I have decided to approve the Application. Consequently, I have entered the following Party in the Register:

Name of party:	Indigenous-Aboriginal Party of Australia
Abbreviation:	Indigenous Party of Australia
Registered Officer:	Owen Whyman
Registered Officer's address:	13 Hood Street The Mallee WILCANNIA NSW 2836
Does party seek election funding:	YES

Materials I have taken into account

4. In making this decision, I had regard to:
 - the Application received by the Australian Electoral Commission ('the AEC') on 13 April 2021 and further information received on 18 October 2021;
 - 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 ('the ABS');
 - Part XI of the Electoral Act;
 - the *Electoral Legislation Amendment (Party Registration Integrity) Act 2021*;
 - the Register and the Register of Political Parties of each Australian State and Territory;
 - written particulars objecting to the Application (referred to as 'objections') received from a person with the initials PQ ('the PQ objection'), EB ('the EB objection'), and DS ('the DS objection'); and
 - the response to the objections from the Party ('the Response'); and
 - the AEC's *Guide for registering a party*.

Findings of Fact and Consideration

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

Procedural application requirements

6. I am satisfied that the Application meets the requirements of ss 126(2)(a)–(g) of the Electoral Act. The Application:

- was in writing, signed by the applicants (s 126(2));
- set out the name of the Party (s 126(2)(a));
- set out an abbreviation of the name of the Party (s 126(2)(b));
- 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 (s 126(2)(c));
- included a list of the names of the 1,500 members of the Party to be relied on for the purposes of registration (s 126(2)(ca));
- stated that the Party wishes to receive moneys under Division 3 of Part XX of the Electoral Act (s 126(2)(d));
- set out the names and addresses of the applicants and particulars of the capacity in which each applicant makes the Application (s 126(2)(e));
- was accompanied by a copy of the constitution of the Party (s 126(2)(f)); and
- was accompanied by a fee of \$500 (s 126(2)(g)).

Membership list

7. The membership list submitted for the Application supplied on 18 October 2021 contained 1,650 names of people that the Party considers to be current members (referred to as 'members' below). AEC staff cross-checked this membership list with the Commonwealth Electoral Roll ('electoral roll'), as required by the meaning of 'member of a political party' in s 123(3) of the Electoral Act.

Submitted membership list	1,650
Automatically matched to the electoral roll	1,368
Manually matched to the electoral roll	248
Unable to be matched or not enrolled on the electoral roll	(32)
Deceased	2
Total	1,616

8. Of the 1,616 members matched to the electoral roll the following were identified as duplicates within the membership list or as duplicate members who have previously supported the registration of a registered political party (or parties):

Total matched to the electoral roll	1,616
Under 18 years old	(1)
Duplicates identified in the membership list provided by the Party	(30)
Members identified as also supporting the registration of another party	(19)
Total	1,566

9. In accordance with the random sampling formula provided by the ABS, a list of 1,566 members requires a random sample of 42 contactable members to confirm they are members of the Party, with up to four denials of membership are permitted. The Electoral Commission's view is that, absent of any relevant factors to the contrary, a failure to satisfy the test provided by the ABS alone constitutes reasonable grounds upon which the delegate

of the Electoral Commission can be satisfied that a non-Parliamentary political party does not have the required 1,500 members.

The relevant numbers for this membership test were:	Members
The random sample size	42
Denials Permitted	4
The AEC attempted to contact*	53
The highest 44 responses were:	
- Confirmed Membership of the Party	42
- Denied Membership of the Party	0
PASS/FAIL	PASS

*as some members were uncontactable, or provided a neutral response

10. Accordingly, I am satisfied that the Party has at least 1,500 members and the Application meets the requirements of s 126(2)(ca) of the Electoral Act.

Party constitution

11. A copy of the constitution of the Party accompanied the Application as required by s 126(2)(f) of the Electoral Act. The constitution provided in the Application:
- is in writing; and
 - sets out the aims of the Party, at least one of which being the promotion of the election of its candidates to the Senate and/or House of Representatives.

12. Accordingly, I am satisfied that the Party meets the requirements of having a written constitution in accordance with the definition of *eligible political party* at s 123(1) of the Electoral Act and the definition of *political party* at s 4 of the Electoral Act.

Written particulars

13. Section 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.
14. On 6 August 2021, the application was advertised in 10 major newspapers circulating in each State and Territory of Australia and published on the AEC website. The advertised closing date for objections was 6 September 2021.
15. The Electoral Commission received three objections.

Written particulars from	Date received	Administrative requirements met	Grounds for objection under the Electoral Act
The PQ objection	6 August 2021	Yes	S 129(1)(b)
The EB objection	19 August 2021	Yes	SS 129 and 129A
The DS objection	6 September 2021	Yes	SS 126 and 129

16. Summary of the PQ objection:

'I object to registration of this party under this name on the basis that it is obscene, based on the definition of obscene as "repulsive by reason of crass disregard of moral or ethical principles". Section 129.1 (b) of the Electoral Act applies.'

'Australia is a democratic state where racism should not be tolerated, but the proposed name implies a separation of rights or membership based on ethnicity. Approval of such a name could be a precedent to applications for others, e.g. an Anglo party, a Negro party or other inappropriate term.'

17. Summary of the EB objection:

'I wish to object to Proposed abbreviation of the "Indigenous Party of Australia" or "IPA" as they will be using the abbreviations of the following businesses or organisations and also a known type of an alcohol drink.'

'IPA - Is also known as the "Institute of Public Affairs" and had been an established Australian business for many years.'

'IPA - Is the major as well as the oldest representative organisation for phoneticians. It was established in Paris in 1886 and is named "International Phonetic Association". IPA - Is also a type of beer, named India Pale Ales were invented in Britain. Now IPA beers are known around the world.'

'Do does a political party wish to be represented by an anachronism (IPA) that is already in use by another political business, phonetics business and especially the identification of a type of beer.'

'Also, there was no logo available to view in the 'Notice of Application' by Mr Owen Whyman, the proposed registered officer.'

18. Summary of the DS objection:

"This party is a fake and is mostly Non Aboriginal people and fakewho do not speak for Country and are constantly dividing and separating our community. Sighting hate relations and racist speeches. Providing damaging false media regarding our local Darkinyoong community and Darkinjung LALC. We demand this party not be supported.'

'It is not an indigenous party and on the grounds that

- the application does not relate to an eligible political party
- the application should be refused under section 129 of the Electoral Act.'

19. On 12 August 2021, the Party provided the AEC with the Party's response to the PQ objection and, on 30 August 2021, the Party provided the AEC with the Party's response to the EB objection. The Party did not provide the AEC with a response to the DS objection. The Responses were published on the AEC website in accordance with s 132(6) of the Electoral Act.

Procedural validity of objections

20. For objections to be assessed as procedurally valid, they need to meet the administrative requirements under ss 132(2)–(3) of the Electoral Act.

21. I consider that all of the objections from the persons listed above addressed the administrative requirements of ss 132(2) and 132(3) of the Electoral Act as all three of the objections were submitted within the consideration period (on or before 11.59PM on

6 September 2021, applying ss 2G(1) and 36(1) of the *Acts Interpretation Act 1901*); were signed by the person submitting the objection and specified a postal address of that person that did not consist of a post office box number (ss 123(1) and 140 of the Electoral Act).

Relevant grounds for objections to the Application

22. Section 132(2)(b) of the Electoral Act provides that a person can only submit written particulars objecting to an application to register a party (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 s 126 of the Electoral Act; or
 - (iii) the application should be refused under s 129 of the Electoral Act; or
 - (iv) the Electoral Commission should refuse to enter a logo of the party in the Register under s 129A of the Electoral Act.

Consideration of objections

23. I do not consider that any of the objections have provided grounds under s 126 of the Electoral Act that indicate that the Application has not been made in accordance with the requirements for an application under s 126 of the Electoral Act (s 132(2)(b)(ii)). Similarly, as the Party did not seek registration of a logo, s 132(2)(b)(iv) of the Electoral Act is not applicable.
24. I am of the view that all three objections have been made on the alleged basis that the name, Indigenous-Aboriginal Party of Australia, and the abbreviation, Indigenous Party of Australia, are prohibited under s 129 of the Electoral Act (s 132(2)(b)(iii)). It would appear the DS objection has also been made on the alleged basis that the Party is not an eligible political party (s 132(2)(b)(i)).
25. Section 129 of the Electoral Act outlines the requirements for registering party names and abbreviations. An objection to a party name or abbreviation, which is made on the grounds of s 132(2)(b)(iii) of the Electoral Act, can be made against any of the requirements outlined under s 129 of the Electoral Act.
26. Section 129(1) of the Electoral Act provides:
- The Electoral Commission shall refuse an application for the registration of a political party if, in its opinion, the name of the party or the abbreviation of its name that it wishes to be able to use for the purposes of this Act (if any):*
- (a) comprises more than 6 words;*
 - (b) is obscene, frivolous or vexatious;*
 - (c) is the name, or is an abbreviation or acronym of the name, of another political party (not being a political party that is related to the party to which the application relates) that is a recognised political party;*
 - (d) so nearly resembles 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 to which the application relates) that is a recognised political party that it is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be;*
or
 - (da) is one that a reasonable person would think suggests that a connection or relationship exists between the party and a registered party if that connection or relationship does not in fact exist; or*

(e) comprises the words "Independent Party" or comprises or contains the word "Independent" and:

- (i) the name, or an abbreviation or acronym of the name, of a recognised political party; or
- (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a recognised political party that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be.

PQ objection

27. I have considered, and reject the PQ objection for the following reasons.
28. The PQ objection considers that the proposed name is 'obscene' for the purposes of s 129(1)(b) of the Electoral Act. The reasons provided are that the definition of obscene is 'repulsive by reason of crass disregard of moral or ethical principles'. The PQ objection also provides further reasoning that 'Australia is a democratic state where racism should not be tolerated, but the proposed name implies a separation of rights or membership based on ethnicity. Approval of such a name could be a precedent to applications for others, e.g. an Anglo party, a Negro party or other inappropriate term'.
29. The term 'obscene' is not defined in the Electoral Act. However, in determining if a name is 'obscene' in the context of assessing s 129 of the Electoral Act (which is a question of fact to be determined according to the opinion of the Electoral Commission or the delegate), I have considered the following:
 - is the name 'obscene' according to ordinary definitions of the word 'obscene' ('indecent', 'offensive to modesty or decency', or includes a commonly-accepted 'obscenity' etc.); or
 - is it a name which is designed to bring the electoral system into disrepute or which may undermine the respect for and community standing of government agencies, registered political parties, or democratically-elected members of Parliament.
30. I do not consider that the name 'Indigenous-Aboriginal Party of Australia' or the abbreviation 'Indigenous Party of Australia' or the individual words ('Indigenous', 'Aboriginal', 'Party', 'of' or 'Australia') meet any of the ordinary definitions of 'obscene'. Further, I do not consider that the name 'Indigenous-Aboriginal Party of Australia' or the abbreviation 'Indigenous Party of Australia' would bring the electoral system into disrepute or undermine the respect for and community standing of government agencies, registered political parties, or democratically-elected members of Parliament.

EB objection

31. I have also considered, and reject, the EB objection for the following reasons.
32. It is my view that the EB objection alleges that the Party's name or abbreviation are prohibited under s 129 of the Electoral Act for the reason that the acronym 'IPA' (which DS asserts as being the acronym of the Party):
 - is associated with the "Institute of Public Affairs", "International Phonetic Association" and "India Pale Ales"; and
 - 'is already in use by another political business, phonetics business and especially the identification of a type of beer'.
33. None of the Institute of Public Affairs, International Phonetic Association or India Pale Ales is a recognised political party as defined under s 129(2) of the Electoral Act. Therefore, the EB objection does not identify a registered party that causes the proposed name or abbreviation

to be a name or abbreviation that a reasonable person would think suggests that a connection or relationship exists between the Party and a recognised party if that connection or relationship does not in fact exist (s 129(1)(da) of the Electoral Act). Similarly, the EB objection does not identify a recognised political party the name, abbreviation, or acronym of which is (or is resembled by) the name or abbreviation of the Party (ss 129(1)(b)–(c) of the Electoral Act).

DS objection

34. I have also considered, and reject, the DS objection for the following reasons.
35. The grounds for objecting are based on DS' opinion that the Party is 'mostly Non Aboriginal people' and therefore 'a fake'. The ethnicity of a party's members has no bearing on the requirements in ss 123, 126, or 129 of the Electoral Act, and the assertion that the Party is a 'fake' is not supported by evidence that the Party's application has failed to satisfy any of the requirements under ss 123, 126, or 129 of the Electoral Act .

Party name and abbreviation

36. When undertaking an initial assessment of the Application, I considered the Party's proposed name and proposed abbreviation against the requirements of s 129 of the Electoral Act, and reviewed the Register and the registers for each State and Territory for parties with a similar name, abbreviation or acronym.
37. The Party name, Indigenous-Aboriginal Party of Australia, and the abbreviation of the Party name, Indigenous Party of Australia:
- do not comprise more than 6 words;
 - are not obscene;
 - are 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;
 - do not so nearly resemble 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 that it is likely to be confused with or mistaken for that name or that abbreviation or acronym;
 - are not one that a reasonable person would think suggests a connection or relationship exists between the Party and a registered party;
 - do not comprise the words "Independent Party";
 - do not comprise or 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 the name, of a recognised political party that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym.

38. Accordingly, I am satisfied on the materials before me that there is no basis to refuse the Application under s 129 of the Electoral Act.

Conclusion

39. For the reasons outlined above, I approve the application from Indigenous-Aboriginal Party of Australia for registration in the Register, as a delegate of the Electoral Commission for the purposes of ss 126(3) and 133(1) of the Electoral Act.

Your Review rights

40. Under s 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.
41. 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 posted to Locked Bag 4007, Canberra City ACT 2601.

How do I request an internal review?

42. In accordance with ss 141(2) and 141(3) of the Electoral Act, an application for review must:
- be in writing;
 - specify the name of the applicant;
 - specify an address of the applicant; and
 - set out the reasons for making the application.
43. 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?

44. The Electoral Commission, which is comprised of three members, the Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews.
45. Under s 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?

46. 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 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

47. 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.

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

(signed)

Joanne Reid
Assistant Commissioner
Delegate of the Electoral Commission
29 November 2021