

AEC reference: LEX967

Mr Robert [REDACTED]  
President  
Seniors United Party of Australia  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Mr [REDACTED]

Review of decision under s 141(4) of the *Commonwealth Electoral Act 1918* ('the Electoral Act') – notice of decision under s 141(7)

---

1. The Australian Electoral Commission ('the Commission') refers to your written application made by email dated 21 March 2021 for review of the delegate's decision dated 9 March 2021 to deregister the Seniors United Party of Australia ('the Party').
2. A 'reviewable decision' (within the meaning of s 141(1) of the Electoral Act) was made by the delegate under s 137(6) of the Electoral Act ('the delegate's decision'). The delegate's decision was made on the basis that the delegate was satisfied on reasonable grounds that the Party 'has ceased to have at least 500 members' and, therefore, no longer met the requirements applicable at the time: see s 137(1)(b) of the Electoral Act.
3. Your review application was made under s 141(2) of the Electoral Act. The Commission is writing to you to give you notice of the review decision made by the Commission on 17 November 2021 ('the review decision'), as required by s 141(7) of the Electoral Act.

Notice of decision – s 141(7)

---

4. Pursuant to s 141(4)(c) of the Electoral Act, the Commission decided to:
  - (a) set aside the decision under review; and
  - (b) substitute a decision to take all such steps as are necessary to give effect to its decision, including to maintain the registration of the Party by re-registering the Party in the Register.

## Reasons for making this decision

---

5. In making its decision, the Commission had regard to all the material before it, including:
  - (a) your review application and related correspondence between you and the Commission Secretariat (including submissions in support of your review application and your requests for further time to compile a membership list);
  - (b) the material and other information before the delegate in making the delegate's decision, including the membership lists provided by you on 8 October 2020 and 3 February 2021;
  - (c) the delegate's decision and the notice of the delegate's decision and statement of reasons dated 10 March 2021;
  - (d) the membership list provided by you on 23 September 2021 in support of your review application ('the September 2021 membership list');
  - (e) the methodology applicable at the time for testing membership lists as outlined in the AEC's Party Registration Guide and published on its website ('testing methodology');
  - (f) the results of the AEC's testing of the September 2021 membership list, conducted in accordance with the testing methodology.
6. You relied on the September 2021 membership list in support of your review application. You made further submissions in support of your review application by emails and attachments to emails sent to the Commission Secretariat. Among other things, these submissions concerned the effect of the mainly elderly membership on fund-raising and candidate identification; membership participation and longevity; the feasibility of phone contact with members for membership confirmation; issues and errors on the part of the AEC when undertaking membership list testing; challenges to the testing procedures; and public interest concerns.
7. For the following reasons, the Commission was satisfied that the Party has at least 500 members, having regard to the September 2021 membership list. Therefore, the Commission considered that it was unnecessary to address specifically the matters outlined in the previous paragraph.

### September 2021 membership list

8. The Commission noted that the Electoral Act does not provide a method for ascertaining whether a political party satisfies the numerical membership requirements of the Electoral Act. The Commission considered the testing methodology applicable at the time outlined in the AEC's Party Registration Guide for

determining whether this requirement was met. The Commission noted that this methodology was the same as the sampling methodology recommended by the Australian Bureau of Statistics ('ABS'). The Commission concluded that the methodology was appropriate for the purpose of membership testing, including because it was rational, fair and practical in all the circumstances.

9. The September 2021 membership list contained 550 names of people that the Party considered to be members ('members'). The Commission Secretariat cross-checked that list with the Commonwealth electoral roll ('the electoral roll') to ensure that each listed person was 'an elector' as required by the definition of 'a member of a political party' in s 123(3) of the Electoral Act.

<b>Submitted membership list</b>	<b>550</b>
Automatically matched to the electoral roll	473
Manually matched to the electoral roll	69
Unable to be matched or not enrolled on the electoral roll	8*
<b>Total</b>	<b>542</b>

\* 3 individuals were deceased.

10. Of the 542 members matched to the electoral roll the Commission Secretariat identified the following as duplicates within the September 2021 membership list or as members who have previously been relied on for the registration of another registered political party, who were therefore unable to be relied on by the Party for the purpose of registration.

<b>Total matched to the electoral roll</b>	<b>542</b>
Duplicates identified in the membership list provided by the applicants	0
Members identified as also supporting the registration of another party	4
<b>Total</b>	<b>538</b>

11. For a list of 538 members, the advice from the ABS was that there can be statistical confidence that the Party has at least 500 members where a random sample of 44 individuals confirm that they are members of the Party, with 5 denials permitted ('ABS advice').

<b>The relevant numbers for this membership test were</b>	<b>538</b>
Random sample size	44
Denials permitted	5
The AEC attempted to contact	57*
<b>The highest 44 responses were:</b>	
- Confirmed membership of the Party	47**
- Denied membership of the Party	1
<b>PASS/FAIL</b>	<b>PASS</b>

\*13 members originally could not be contacted or were unable to confirm or deny membership during membership testing.

\*\*4 members confirmed membership of the party after the cessation of testing.

12. The Commission considered that the results of testing the September 2021 membership list were reliable because the testing process undertaken by the Commission Secretariat was in conformity with the methodology outlined in the AEC's Party Registration Guide and recommended by the ABS.
13. Having regard to the ABS advice, the Commission was satisfied that, since only one individual denied membership out of a random sample of 44 individuals, there could be sufficient statistical confidence that the Party has at least 500 members. The Commission was therefore of the opinion that the Party should not be deregistered.
14. The Commission notes that the September 2021 membership list was not available to the delegate when the delegate made her decision to deregister the Party on 9 March 2021.
15. The Commission notes that the review decision was made on 17 November 2021. It further notes that the *Electoral Legislation Amendment (Party Registration Integrity) Act 2021*, which received Royal Assent on 2 September 2021 and commenced the next day, contains provisions delaying the application of the amendments to s 137 and the new s 123A 'so far as it relates to those amendments' until 2 December 2021. A consequence is that the 'at least 1,500' membership requirement in s 137(1)(b) (as amended) and the relevant operation of s 123A is inapplicable until after that date.

## Conclusion and review rights

---

16. For these reasons, the Commission was satisfied that the Party should not be deregistered under s 137(6) of the Electoral Act. As already stated, the Commission decided under s 141(4)(c) of the Electoral Act to:
- a) set aside the decision under review; and
  - b) substitute a decision to take all such steps as are necessary to give effect to its decision, including to maintain the registration of the Party by re-registering the Party in the Register.
17. A statement of review rights in respect of this decision is enclosed.

Yours sincerely

[SIGNED]

**The Hon Justice Susan Kenny AM**

Chairperson

15 December 2021

[SIGNED]

**Mr Tom Rogers**

Electoral Commissioner

15 December 2021

[SIGNED]

**Dr David Gruen**

Australian Statistician  
(non-judicial member)

15 December 2021

## Your review rights

---

Under s 141(5) of the Electoral Act, a person (including an organisation) affected by the Commission's decision who is dissatisfied with the decision may make an application to the Administrative Appeals Tribunal ('the AAT') for review of the decision.

### **How is an application made to the AAT for a review of a Commission decision?**

In accordance with s 29 of the *Administrative Appeals Tribunal Act 1975*, the application must:

- (a) be made in writing;
- (b) be accompanied by any prescribed fee;
- (c) contain a statement of reasons for the application; and
- (d) be made within the prescribed time.

The application should also:

- (a) specify the name of the applicant; and
- (b) include an address at which documents in relation to the AAT proceedings may be given.

More information on how to apply to the AAT can be found on the AAT website:

<https://www.aat.gov.au/apply-for-a-review>.

### **Prescribed fee**

The AAT's standard application fee is \$962. In certain circumstances, an applicant may be entitled to pay a reduced fee of \$100.

If an applicant pays the standard application fee and the AAT review is resolved in the applicant's favour, the AAT will refund the difference between the standard application fee and \$100. There is no refund if the applicant paid the reduced fee of \$100.

Further information about fees is available on the AAT website:

<https://www.aat.gov.au/apply-for-a-review/other-decisions/fees>.

### **Prescribed time**

You may apply to the AAT for review of the Commission's decision during the period commencing on the day on which the Commission's decision was made and ending on the twenty-eighth day after this letter was given to you.

The AAT may extend the time for making an application to the AAT for a review of a decision, if an application for extension is made in writing to the AAT and the AAT is satisfied that it is reasonable in all the circumstances to do so.

Further information about time limits is available on the AAT website:  
<https://www.aat.gov.au/apply-for-a-review/other-decisions/time-limits>.

### **Conduct of a review by the AAT**

The AAT can exercise the same powers and discretions as the Commission to make a decision on an application to register a party in the Register afresh 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; or
  - remit the matter for reconsideration in accordance with any directions or recommendations of the AAT.

Further information about the review process can be found on the AAT website:  
<https://www.aat.gov.au/steps-in-a-review/other-decisions>.

### **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 Commission.

For more information about access to documents under the FOI Act, please visit the Commission'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 the Commission's decision, please contact the Commission Secretariat by emailing [commission.secretariat@aec.gov.au](mailto:commission.secretariat@aec.gov.au).