


**NOTICE OF PARTY REGISTRATION DECISION  
APPLICATION TO REGISTER A PARTY IN THE REGISTER OF  
POLITICAL PARTIES APPROVED  
THE NEW LIBERALS**

**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 s133(1) of the Electoral Act to notify you of the determination of the application to register The New Liberals ('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:	The New Liberals
Abbreviation:	TNL
Logo	
Registered Officer:	Victor Alan Kline
Registered Officer's address:	53 Martin Place SYDNEY NSW 2000
Does party seek election funding:	YES

**Materials I have taken into account**

4. In making this decision, I had regard to:
  - the amended Application received by the Australian Electoral Commission ('the AEC') on 16 December 2020;
  - 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 *Commonwealth Electoral (Logo Requirements) Determination 2016*;
  - internet searches of trademarked and licenced logos undertaken by a service provider engaged by the AEC;
  - the Register and the Register of Political Parties of each Australian state and territory;
  - the AEC's *Party Registration Guide*;

- written particulars objecting to the Application (referred to as ‘objections’) received from a person with the initials AN (‘the AN Objection’), Mr Andrew Hirst (on behalf of the Liberal Party of Australia, supported by its Divisions and the Liberal National Party of Queensland) (‘the Liberal Party Objection’), and Mr Jonathan Hawkes (on behalf of the National Party of Australia);
- the response to the objections from the person who is to be the Party’s Registered Officer, Mr Victor Kline (‘the Response’); and
- the Administrative Appeal Tribunal (‘the AAT’) cases of *Woollard and Australian Electoral Commission and Liberal Party of Australia (WA Division) Inc* [2001] AATA 166 (6 March 2001) (‘*Woollard*’) and *The Fishing Party and Australian Electoral Commission and The Australian Fishing and Lifestyle Party* [2009] AATA 170 (‘the *Fishing Party Case*’).

### **Findings of Fact**

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 a logo of the Party (s 126(2)(ba));
- 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 500 members of the Party to be relied on for the purposes of registration (s 126(2)(ca));
- advised 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 contained 550 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 ('the electoral roll'), as required by the meaning of '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	442
Manually matched to the electoral roll	82
Unable to be matched or not enrolled on the electoral roll	(26)
Deceased	0
<b>Total</b>	<b>524</b>

8. Of the 524 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):

<b>Total matched to the electoral roll</b>	<b>524</b>
Duplicates identified in the membership list provided by the applicants	0
Members identified as also supporting the registration of another party	(1)
<b>Total</b>	<b>523</b>

9. In accordance with the random sampling formula provided by the ABS, a list of 523 members requires a random sample of 37 contactable members to confirm they are members of the Party, with up to three denials of membership permitted, in order for there to be statistical confidence that the Party has at least 500 members.

<b>The relevant numbers for this membership test were:</b>	<b>Members</b>
The random sample size	37
Denials Permitted	3
The AEC attempted to contact*	45
The highest 37 responses were:	
- Confirmed Membership of the Party	35
- Denied Membership of the Party	2
<b>PASS/FAIL</b>	<b>PASS</b>

\*Eight members could not be contacted by the AEC

10. Accordingly, I am satisfied that the Party has at least 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.

#### Party logo

13. The logo set out in the Application:

- is not obscene;
- is not the logo of any other person;
- 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 Party and a registered political party if that connection or relationship does not in fact exist;
- does not comprise the words “Independent Party”;
- does 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;
- 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, overprinting, 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 of the commencement of the *Commonwealth Electoral (Logo Requirements) Determination 2016*.

14. Accordingly, on the basis of the materials before me, I am satisfied that the proposed logo submitted with the Application meets the requirements of s 126(2AA) of the Electoral Act and the specifications described in *Commonwealth Electoral (Logo Requirements) Determination 2016* and that there is no basis to refuse to enter the Party’s logo in the Register under s 129A of the Electoral Act.

#### Party name and abbreviation

15. The Party name, The New Liberals, and the abbreviation of the Party name, TNL:

- 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.

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.

#### Written particulars submitted objecting to the Party’s name

16. 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 under s 132 of the Electoral Act. Section 132 of the Electoral Act also outlines the requirements for submitting and processing objections to an application.
17. Section 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 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.
18. On 19 February 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 19 March 2021.
19. The Electoral Commission received 3 objections. Each objection submitted that the Application should be refused because the registration of the proposed name, ‘The New Liberals’, is prohibited under s 129 of the Electoral Act. Of the 3 objections, one is a brief statement from a member of the public (the AN Objection), one is a detailed set of particulars on behalf of the Liberal Party of Australia and its Divisions (the Liberal Party Objection), and the third is a brief objection by the National Party of Australia which adopts the submissions of the Liberal Party of Australia.

#### Administrative requirements

20. For objections to be assessed as valid, they need to meet the administrative requirements under ss 132(2)–(3) of the Electoral Act.
21. On 14 April 2021, I determined that all of the objections from the persons listed above addressed the administrative requirements of ss 132(2)(b) 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 19 March 2021, applying ss 2G(1) and 36(1) of the *Acts Interpretation Act 1901*); were signed by the person submitting the objection, specified an address of that person that did not consist of a post office box number (s 123(1)), and were based on at least one of the grounds under s 132(2)(b) of the Electoral Act.

22. On 28 April 2021, Mr Kline submitted to the AEC a reply to the written particulars contained in these objections on behalf of the Party.

#### Consideration of the objections to the Application

23. For the reasons outlined below, I consider that the Party's proposed name, 'The New Liberals', and the proposed abbreviation, 'TNL', are not prohibited under s 129 of the Electoral Act.
24. 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:

Party name	Abbreviation	Register
The Liberal Party of Australia, New South Wales Division	Liberal	NSW
Liberal Democratic Party	Liberal Democrats	NSW
Country Liberal Party of the Northern Territory	CLP	NT
Liberal National Party of Queensland		QLD
Liberal Democratic Party	Liberal Democrats	WA
Liberals For Climate - The Flux Network	Liberals For Climate	WA
The Liberal Party of Australia (Western Australian Division) Inc	Liberal Party	WA
Liberal Party of Australia (SA Division)	Liberal Party	SA
Liberal Democratic Party		VIC
Liberal Party of Australia – Victorian Division		VIC
The Liberal Party of Australia, Tasmanian Division		TAS
Liberal Democratic Party	Liberal Democrats	ACT
Liberal Party of Australia (A.C.T. Division)	Canberra Liberals	ACT
Liberal Democratic Party	Liberal Democrats	Federal
Liberal National Party of Queensland	LNP	Federal
Liberal Party (W.A. Division) Inc	Liberal	Federal
Liberal Party of Australia	Liberal	Federal
Liberal Party of Australia - ACT Division	Liberal	Federal
Liberal Party of Australia - Tasmanian Division	Liberal	Federal
Liberal Party of Australia (S.A. Division)	Liberal	Federal
Liberal Party of Australia (Victorian Division)	Liberal	Federal
Liberal Party of Australia, NSW Division	Liberal	Federal

#### *'Liberals'*

25. In addition to the Party, two parties were identified with the word 'Liberals' in their registered name or abbreviation. 'Liberals For Climate - The Flux Network' is on the Western Australia Electoral Commission's Register with the registered abbreviation 'Liberals for Climate', and 'Canberra Liberals' is the registered abbreviation of 'Liberal Party of Australia (A.C.T. Division)' registered with Elections ACT. There are no parties on the federal Register with the word 'Liberals' in their registered name or registered abbreviation.

*'Liberal'*

26. In addition to the Party, 20 parties were identified with the word 'Liberal' in their registered name or abbreviation.

**Consideration**

27. Section 129 provides that the Electoral Commission shall refuse an application for the registration of a political party if in the Electoral Commission's opinion the name of the party or an abbreviation of the party's name that the party wishes to be able to use for the purposes of the Electoral Act meets one of the criteria set out in s 129(1). The only relevant criteria in the present case (as also identified in the Liberal Party of Australia's Objection and the Response) are ss 129(1)(d) and 129(1)(da), which provide:

(1)

...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):

(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;

28. In other words, the key point of difference between the positions set out in the Liberal Party Objection (endorsed by the objection of the National Party of Australia) and the Response is whether the name 'The New Liberals':

- so nearly resembles the names of the Liberal Party of Australia (or its State/Territory Divisions that are recognised political parties) or the Liberal National Party of Queensland that it is likely to be confused with or mistaken for that name (s 129(1)(d))
- is a name that a reasonable person would think suggests that a connection or relationship exists between The New Liberals and the Liberal Party of Australia (or its State/Territory Divisions on the Register) or the Liberal National Party of Queensland (s 129(1)(da)).

29. The AN Objection expresses how The New Liberals and the Liberal Party 'both share similar focal points' which can cause confusion 'on how each party differs'.

Sections 129(1)(d) and 129(1)(da) of the Electoral Act

30. Annexure 1 to the Liberal Party Objection includes survey evidence conducted by market researcher Mr Michael Turner, Head of Research at CT Group ('the Market Research Report'). The Market Research Report makes up a significant element of the Liberal Party Objection. It addresses elements of both ss 129(1)(d) and 129(1)(da) so has been considered in relation to both.
31. The Response outlines the Party's arguments in relation to the Market Research Report at paragraphs 41–47, including concerns regarding the lack of qualifications of the author of the

survey (paragraph 42). It is noted that Appendix C to the Market Research Report includes a brief Curriculum Vitae of Dr Michael Turner. The Response also notes that ‘the provenance of the subjects of the survey are not identified’ (paragraph 43) and they have been selected by an ‘opt in’ process (paragraph 44). Finally, the Response notes that ‘the CT Group which produced the report is in the regular employ of the Objectors as a political advisor and has helped it run its political campaigns’.

32. I am not in a position to judge the accuracy of the material in the Market Research Report. I have considered the material in the Report but not regarded it as determinative for the reasons that follow.
33. The precise methodology used in putting together the research report is not specified in the Market Research Report. Some details are provided on page 2: for example, ‘Respondents were sourced from an online panel via an opt-in process’. However, exactly how this occurred is not outlined, nor whether the selected sample followed generally accepted statistical methods (including methods that can provide estimates of sampling error).
34. The methodology chosen for the questionnaire design is also not outlined in the Market Research Report. It is not clear whether consideration was given to the following factors:
- whether questions asked earlier in the survey influenced how respondents answered later questions
  - whether the use of close-ended questions as opposed to open-ended questions influenced responses
  - when asking closed-ended questions, whether the choice of options provided, how each option is described, the number of response options offered and the order in which options are read influenced responses.
35. I have accepted that the Research Report shows that some of the participants in the research were confused or mistaken by the name The New Liberals, or expressed a belief that The New Liberals are in some way connected with a registered political party. I have not regarded that evidence as conclusively resolving the application of s 129(1)(d) and (da), but I have decided to give the evidence some weight.

Section 129(1)(d): whether ‘The New Liberals’ is likely to be confused with or mistaken for the ‘Liberal Party of Australia’

36. The Liberal Party Objection states that the name ‘The New Liberals’ ‘would inevitably generate substantial confusion as to ... identity ... with the Liberal Party’ (paragraph 4). Further:
- It is anticipated that in defence of its Application, The New Liberals will point the Commission to instances where registered political parties have included in their names the word ‘liberal’ or ‘liberals’, such as the Liberal Democrats, liberals for forests and Liberals for Climate –The Flux Network. Any such reliance would be misplaced. Whilst no concession is made that those names are permissible under s. 129, they are in a completely different category to the proposed name The New Liberals. For instance, unlike other party names which have ultimately been allowed registration the deployment of the word ‘new’ in The New Liberals strongly suggests that it is derivative of the Liberals... Nor does the proposed name include reference to a specific political issue. It is apt to confuse.



37. The Response puts the following reasons forward at paragraph 29 for why 'The New Liberals' and the 'Liberal Party of Australia' are sufficiently aurally and visually distinguished on the basis that:

The Liberal Party of Australia has the word 'Liberal' at the beginning of its name. The New Liberals has the similar, but not identical word 'Liberals', at the end of its name.

The Liberal Party of Australia uses the word 'Party'. The New Liberals does not.

The Liberal Party of Australia uses the word 'Australia'. The New Liberals does not.

The New Liberals uses the word 'New'. The Liberal Party of Australia does not.

One has four words and one has three.

To the eye the names are quite different:

Liberal Party of Australia

The New Liberals

38. What the Response says one is left with is 'the only similarity being the word liberal over which the Liberal Party cannot claim a monopoly' (paragraph 30).

39. The test identified in *Woollard* for applying s 129(1)(d) requires the Electoral Commission, or myself as delegate, to determine:

- whether there is a resemblance between the proposed name, abbreviation or acronym and one already entered on the Register or recognised under State or Territory laws;
- if so, whether there is a real chance, flowing from that resemblance, that the proposed name, abbreviation or acronym will be mistaken for one already entered in the Register or recognised under State or Territory laws in the sense that an elector intending to vote for the political party with prior registration marks a vote for the newcomer because he or she thinks its name is the name of the party which is intended to receive the vote;
- alternatively, whether there is a real chance that the proposed name, abbreviation or acronym will cause electors to think that it is the same as the name of the pre-registered party or to be left in such uncertainty as to which name attaches to which organisation that no informed vote can be cast without some additional information.

40. In *Woollard* the AAT held (at [23]):

The confusion or mistake that is relevant ... is that of the elector preparing to vote by marking the ballot paper at an election. It is the judgment of the elector in that brief time in the polling booth that is to be protected... It must be remembered also that the electors who are to be protected from the likelihood of confusion or mistake are the full range of electors. The system of registration exists in the context of a system in which it is the duty of every elector to vote at each election (s 245(1)). The range of people to be considered is the full spectrum of voters. The likelihood of confusion or mistake is to be assessed with respect to all adults, involving a range of age, linguistic ability, literacy, intelligence, commitment and other factors.

41. It was held in *Woollard* that no political party can claim the exclusive right to generic words such as 'Australia', 'liberal', 'labour', 'democrat', 'national' etc (at [40]). The AAT held that '[a]bsent clear language to contrary effect, the disqualifying provision is not to be construed

so as to lock up generic words as the property of any organisation when it comes to names that can be used on the ballot paper' (at [40]).

42. Accordingly, the fact that 'The New Liberals' contains the word 'liberal' is not enough to engage s 129(1)(d): the use of a general political label will not, without more, be a sufficient basis for the Electoral Commission to form the opinion that one political party is likely to be confused with another whose name includes the same generic term.

43. If there is a problem with the name 'The New Liberals', it is because it creates the risk that a voter will be confused or mistaken about the identity of the party. Importantly, the AAT in *Woollard* also considered how likely it needs to be that a proposed name or abbreviation will create confusion or mistake. After noting that 'likely' can mean different things in different legal contexts, at [38] the AAT held:

It would be too limited a view of the protection provided by par 129(d) to say that it operates only against relevant confusion or mistake which is more likely than not to occur if registration proceeds. The term "likely", in this setting, is a direction to the Commission to make an assessment of the risk that registration will have the consequences referred to. That risk will not be remote or fanciful but, within the limits imposed by the language of the paragraph, will be relevant to the integrity of the voting process. It may be a risk seen as affecting all electors or it may be seen as affecting a proportion of that population. The assessment will have regard to the fact that not all electors are equally knowledgeable of political parties, nor equally intelligent in discriminating between different terms used on a ballot paper, nor equally literate in appreciating that terms do differ. The task of assessment involves a practical judgment. It is the kind of judgment which courts are frequently called on to make and one which administrators with the appropriate expertise are also required to make from time to time.

44. On this analysis, the 'likely' threshold will be met if a risk is 'not remote or fanciful' but significant enough to be 'relevant to the integrity of the voting process'.

45. The meaning of s 129(1)(d) was also considered briefly in the *Fishing Party Case* in which the AAT held that the names 'The Fishing Party' and 'The Australian Fishing and Lifestyle Party' were not liable to be confused or mistaken, because the words 'and Lifestyle' were 'sufficient to aurally and visually distinguish the two parties as separate entities without risk of confusion or mistake...'

46. The *Fishing Party Case* is drawn upon in the Liberal Party Objection (by quoting from the reasons of the Electoral Commission at paragraph 48) and in the Response (paragraphs 25–26).

47. At paragraph 49 the Liberal Party Objection states:

It is submitted that if the Commission applies the same reasoning in relation to the present application it would reject the application of 'The New Liberals. The party name does not identify a specific issue and there is an absence of any other informative words to differentiate the proposed new party from the Liberal Party.

48. The names of the parties in question in the *Fishing Party Case* both contained the words 'The', 'Fishing' and 'Party'. The Response points out at paragraph 27 that with respect to 'The New Liberals' and the 'Liberal Party of Australia', 'the only thing the two names have in common is the word Liberal/Liberals'.

49. In addition, both the Liberal Party Objection and the Response draw on other examples of party names that have either been approved or rejected by the Electoral Commission. These include the registration of the 'Liberal Democratic Party' (Liberal Party Objection at paragraph 6; the Response at paragraph 31) and the rejection of 'The Australian Party' for Katter's Australian Party (Liberal Party Objection at paragraphs 48–49; the Response at paragraphs 37–38).
50. Although each decision needs to be considered afresh on the information before the decision-maker and previous decisions of the Electoral Commission have no strictly precedential value, parallels and differences can be drawn between the instant decision and previous ones. Katter's Australian Party was refused registration because its proposed abbreviation, "The Australian Party" was likely to be mistaken with or confused for one of the already registered parties with 'Australian' in their name. The reasons for refusing 'The Australian Party' included that the word 'Australian' on its own does not emphasise a specific issue or political philosophy and provides very little information of substance to the elector (in the absence of any other informative words within that proposed abbreviation). That meant there was a real chance of confusing or misleading voters in circumstances where there were a number of registered parties with 'Australian' in their name. A voter might be uncertain which of these parties the abbreviation 'The Australian Party' related to.
51. In contrast, there are strong arguments that the name 'The New Liberals' is sufficiently different to other recognised political parties (for the reasons outlined above). While 'liberal' and its various derivations appears in the names of other recognised political parties, the word 'New' provides a visual and aural distinction that was missing in the abbreviation 'The Australian Party'.
52. The Response also correctly points to the parallels between the decision to be made here and the decision of the Electoral Commission to register 'The Liberal Democratic Party'. Each decision turns on its own facts, as stated above. That said, similar considerations arise in relation to both 'The New Liberals' (vis-à-vis the Liberal Party of Australia or the Liberal National Party of Queensland) and 'The Liberal Democratic Party' (vis-à-vis the Liberal Party of Australia or the Liberal National Party of Queensland). It is arguable that 'The New Liberals' is more visually and orally distinct given the distinguishing word 'New' appears first (as compared to the Liberal 'Democratic' Party where the distinguishing word appears in the middle of the party name).
53. In my view 'The New Liberals' application is much closer to the line than the applications at issue in *Woollard* or the *Fishing Party Case*, or than was the case when the Liberal Party of Australia challenged the registration of the Liberal Democratic Party in 2013. That is primarily because, while there is a visual and aural difference between the names 'The New Liberals' and 'Liberal Party of Australia', the difference is less pronounced than was the case for the applicant parties in the earlier cases. In addition, the new party names at issue in *Woollard* and *The Fishing Party Case* each added an additional topic or element to distinguish them from the earlier-registered party – i.e. 'forests' or 'lifestyle' – whereas The New Liberals do not have such a clear thematic difference. Further, the Liberal Party of Australia has proffered some evidence to suggest that the possibility of confusion or mistake is a real one.
54. That said, on balance, I find, as delegate of the Electoral Commission, that the name 'The New Liberals' is sufficiently visually and aurally distinct from the Liberal Party of Australia, any of its Divisions or the Liberal National Party of Queensland so that it is not likely that a voter will be confused or mistaken about which name is associated with which party.

Section 129(1)(da): whether a reasonable person would think that a connection or relationship exists between 'The New Liberals' and the 'Liberal Party of Australia'

55. The Liberal Party Objection summarises at paragraph 6 why, in their view (supported by the National Party of Australia), 'The New Liberals' meets the criteria set out in s 129(1)(da) such that the Electoral Commission 'shall refuse an application for the registration of a political party':
- unlike other party names which have ultimately been allowed registration, the deployment of the word 'new' in The New Liberals strongly suggests that it is derivative of the Liberals: that is, it suggests that it is either a rebranding of the Liberal Party (akin to the introduction by the Labour Party of the name 'New Labour' in the United Kingdom) or is a Division of it, such that a connection or relationship might exist when in fact it does not.
56. In relation to this argument, the Response states the following at paragraph 12:
- The argument would have some merit if the Objectors ceased to exist and all the voter could see on the ballot paper was one party called The New Liberals. They might then think that The Liberal Party of Australia had been 'superseded' by The New Liberals'.
57. After *Woollard* was decided, the Electoral Act was amended to add s 129(1)(da) (see *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004* (Cth)). Paragraph (da) has a broader focus than paragraph (d). A reasonable person could think that there is a connection or relationship between two registered parties without being mistaken or confused as to which party is which (the risk to which (d) is directed).
58. The 'reasonable person' of s 129(1)(da) is an ordinary person possessing no particular insights about the actual connection or relationship existing between political parties. Section 129(1)(da) requires the Electoral Commission, or delegate, to form an opinion as to whether the two names would cause a reasonable person to think the two registered parties are connected or related. Section 123(2) of the Electoral Act provides that, for the purposes of Part XI of the Act (which includes s 129), two political parties shall be taken to be related if one is a part of the other or both are parts of the same political party. Section 129(1)(da) requires that a reasonable person would think that there is a connecting link between the two parties in question or that they are 'related' within the meaning of s 123(2) (in accordance with s 18A of the *Acts Interpretation Act 1901*).
59. 'Connection' means 'state of being connected' (i.e., 'join[ed] or unite[d]; link[ed]; associate[d] or attach[ed]'), or an 'association' or 'relationship' (Macquarie Dictionary).
60. The fact that two parties use the word 'liberal' in their name does not suggest that they are necessarily connected, much less related. However, the word 'New' could either be seen to connote that there is a connection between the 'new' party and another party or could be seen as a distinguishing feature. Having regard to the definition of 'new' in the *Macquarie Dictionary*, in my view the word 'new' does have the connotation of representing something different.
61. The analogy drawn in the Liberal Party's objection with the example of 'New Labour' in the United Kingdom (Liberal Party Objection, paragraphs 6 and 62) is imperfect, including for the reasons identified in the Response (paragraph 48). New Labour was effectively a re-branding of the existing Labour Party, so there was in a sense no harm in voters associating the 'New' version with any previous brand or iteration of the party. However, the more

general point being made in the Liberal Party Objection is that some voters may assimilate the UK experience and conclude that The New Liberals have the same or a similar relationship to the Liberal Party of Australia as New Labour did with its precursor in the UK. That said, I assume that in the UK the name 'Labour' and 'New Labour' did not both appear on a ballot paper, whereas in an Australian election it is very likely that a voter would have a choice between candidates for The New Liberals and the Liberal Party of Australia (which in itself suggests a difference between the two parties).

62. I find that a reasonable person would not think 'The New Liberals' (emphasis added) suggests 'a connection or relationship' to The Liberal Party of Australia or the Liberal National Party of Queensland. The word 'liberal' has a broad meaning and history. It is suggestive of a certain political philosophy. It is not a word that is only associated with one particular party. Based on the prevalence of the term 'liberal' in politics and in relation to liberal thought, any perceived correlation between 'The New Liberals' might be on the basis of their shared belief in liberalism. This is not enough to suggest that a reasonable person would think that a connection or relationship exists between 'The New Liberals' and the 'Liberal Party of Australia'.
63. The commonly recognised abbreviations by the public of the Liberal Party of Australia, including in the plural (in contrast to the registered abbreviation) 'the Liberals' and 'the Liberal Party' (as submitted in the Liberal Party Objection at paragraph 12) do not change the finding that a reasonable person would not think the name 'The New Liberals' suggests a connection or relationship between the two parties.
64. For completeness, it is also my view that the proposed name is not prohibited under ss 129(1)(a), 129(1)(b) 129(1)(c), or 129(1)(e) of the Electoral Act.
65. For the reasons outlined above, I approve the application from The New Liberals for registration in the Register, as a delegate of the Electoral Commission for the purposes of Part XI of the Electoral Act.

### **Review rights**

66. 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.
67. 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 posted to Locked Bag 4007, Canberra City ACT 2601.

#### How do I request an internal review?

68. 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.

69. 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?

70. The Electoral Commission, which is comprised of three members, the Australian Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews.
71. 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?

72. 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](http://www.aat.gov.au/applying-for-a-review/how-to-apply).

Freedom of Information

73. 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).
74. 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)

Joanne Reid  
Assistant Commissioner  
Delegate of the Electoral Commission

3 June 2021