

NOTICE OF DECISION ON PARTY REGISTRATION APPLICATION TO REGISTER A NON-PARLIAMENTARY PARTY IN THE REGISTER OF POLITICAL PARTIES REFUSED TRUMPET OF PATRIOTS

Notice of decision under s 133(3) of the *Commonwealth Electoral Act 1918* (Electoral Act) and Statement of Reasons

1. I am writing in accordance with s 133(3) of the Electoral Act to notify you of the determination of the application to register Trumpet of Patriots (the Party) as a non-Parliamentary party in the *Register of Political Parties* (the Register).
2. I am authorised to determine this application for party registration under s 133 of the Electoral Act as a delegate of the Electoral Commission.
3. On 23 December 2021, the Australian Electoral Commission (AEC) received the application to register the Party as a non-Parliamentary party (the Application) under s 126(1)(b) of the Electoral Act.
4. Processing of the application was suspended from 11 April 2022 until 23 June 2022 under s 127 of the Electoral Act due to the issue of writs for the 2022 federal election
5. On 31 August 2022, the AEC issued a notice in accordance with s 131(1) of the Electoral Act. The s 131 notice stated that the Party's membership list did not satisfy the legislative requirement of 'at least 1,500 members'. Furthermore, the Applicants were required to respond on or before 1 November 2022 in the following terms:
 - vary the Application, in relation to the membership list in a manner that meets the legislative requirements of s 123(a)(ii) of the Electoral Act;
 - proceed with the Application in the form in which it was lodged; or
 - withdraw the Application
6. As of 10 November 2022, no response has been received by the AEC.
7. Accordingly, my determination is based on the Application, as lodged on 23 December 2021.

Decision

8. I have determined that the application to register the Party as a non-Parliamentary party in the *Register of Political Parties* should be refused.

Materials I have taken into account

9. In making this decision, I had regard to:
 - the Application, received by the AEC on 23 December 2021;
 - Part XI of the Electoral Act;
 - Section 4 of the Electoral Act;
 - the *Commonwealth Electoral (Logo Requirements) Determination 2016* (the Determination);
 - 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; and

- the AEC's *Guide for registering a party*.

Findings of Fact and Consideration

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

Procedural application requirements

11. I am satisfied that the Application met the following requirements of s 126 of the Electoral Act.

12. 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 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));
- 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)).

Party constitution

13. 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.

14. 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 name

15. When undertaking an initial assessment of the Application, I considered the Party's proposed name 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.

16. The Party name, Trumpet of Patriots and abbreviation T.O.P.:

- do not comprise more than 6 words;
- are not obscene, frivolous or vexatious;
- 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.
- do not contain a word that is in the name, or the abbreviation of the name, of a registered political party that requires consent from an existing registered political party.

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

Party logo

18. 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;
- does not contain a word that is in the name, or the abbreviation of the name, of a registered political party and therefore does not require consent from an existing registered political party;
- 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*.

19. 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.

Membership list

20. The membership list submitted for the Application supplied on 3 March 2022, contained 1,566 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	1,556
Automatically matched to the electoral roll	1,256
Manually matched to the electoral roll	220
Unable to match or not enrolled on the electoral roll	(80)
Deceased	(0)
Total	1,476

21. Of the 1,476 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	1,476
Under 18 years old	(0)
Duplicates identified in the membership list provided by the Party	(1)
Members identified as also supporting the registration of another party	(12)
Total	1,463

22. Further testing (i.e. generation of a random sample and membership testing) was not conducted as the membership list did not have 'at least 1,500 members'.
23. Accordingly, I am not satisfied that the Application meets the requirements of s 126(2)(ca) of the Electoral Act as it does not include a list of the names of the 1,500 members of the Party to be relied on for the purposes of registration.

Conclusion

24. For the reasons outlined above, I refuse the application from Trumpet of Patriots 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

25. Under s 141(1)(b) of the Electoral Act, my decision to refuse an application for registration of a political party is a reviewable decision.
26. 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.

27. 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?

28. 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.
29. 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?

30. The Electoral Commission, which is comprised of three members, the Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews.
31. 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?

32. 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

33. 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.
34. 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
10 November 2022