UNDERTAKING TO THE ELECTORAL COMMISSIONER

given under section 114 of the *Regulatory Powers (Standard Provisions) Act 2014* (Cth)

by Pamela Winfield

1. Definitions

1.1. In this Undertaking, unless the contrary intention appears, the definitions in this clause apply:

a. **AEC** means the Australian Electoral Commission.

b. **Electoral Act** means the *Commonwealth Electoral Act 1918* (Cth).

c. **Regulatory Powers Act** means the *Regulatory Powers (Standard Provisions) Act 2014* (Cth).

d. **Undertaking** means this undertaking to the Electoral Commissioner provided by Pamela Winfield.

2. Interpretation

2.1. Terms used in this Undertaking that are defined in the Electoral Act, or Regulatory Powers Act will have the same meaning given to those terms in those Acts.

3. Person giving the Undertaking

3.1. This Undertaking is given to the Electoral Commissioner by Pamela Winfield, address known, Horsham VIC 3400, for the purposes of section 114 of the Regulatory Powers Act.

4. Background

The Australian Electoral Commission (AEC)

4.1. The AEC maintains an impartial and independent electoral system for eligible voters through active electoral roll management, efficient delivery of polling services and targeted education and public awareness programs.

Authorisation of a communication of electoral matter

4.2. The Electoral Act requires the communication of certain types of 'electoral matter' to be authorised.

4.3. Electoral matter is defined in section 4AA(1) of the Electoral Act as "*matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in an election (a* ***federal election****) of a member of the House of Representatives or of Senators for a State or Territory…*".

4.4. Section 321D(1)(b) of the Electoral Act requires the communication of electoral matter to contain an authorisation statement where "*the matter forms part of a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card; [and] … the content of the matter was approved by a person…*".

4.5. Item 3 of the table in section 321D(5) of the Electoral Act requires, where a natural person is responsible for a printed communication containing electoral matter, that the particulars in the authorisation must include:

a. the name of the person;

b. the address of the person.

4.6. Section 321B of the Electoral Act defines an address for a natural person is "*a full street address and suburb or locality at which the person can be contacted*".

5. **Conduct of concern**

5.1. On 1 April 2026, a writ was issued for the election of a Member of the House of Representatives for the electoral division of Farrer in the state of New South Wales (**Farrer by-election**).

5.2. On Saturday, 9 May 2026, the Farrer by-election was conducted. Michelle Milthorpe was an independent candidate running for the electorate of Farrer in the by-election.

5.3. On 9 May 2026, the AEC identified corflutes at two separate polling places in the Division of Farrer (**relevant communications**). The corflutes were identical in design and displayed the AEC logo and a table purporting to be an extract from the AEC Transparency Register in respect of Ms Milthorpe. The table set out donations received from the organisations "Regional Voices Fund Pty Ltd" and "Climate 200 Pty Limited". Beneath the table, the corflute stated "+ $60,000 from GetUp!". At the bottom, the corflute stated, "Authorised by Pamela Winfield, Horsham, Victoria".

5.4. The AEC Transparency Register is a published register of entities, information from annual returns, election returns, referendum returns, enforceable undertakings and election funding claims.

5.5. On 9 May 2026, the AEC brought proceedings in the Federal Court of Australia seeking an urgent injunction to enable its officers to remove the corflutes from display at polling places in the division of Farrer.

5.6. The corflutes lacked the required particulars of authorisation, namely a street address, in contravention of s 321D(5) of the Electoral Act. The AEC also considers that a reasonable person may have been mislead by the corflutes such that a reasonable person may have believed they had been published and displayed on behalf of the AEC, when it was in fact not, in possible contravention of section 150.1(1) of the Criminal Code.[1]

[1] Schedule 2 *Criminal Code Act 1995* (Cth).

6. Admissions

6.1. Pamela Winfield admits to:

6.1.1. using the AEC logo, branding and colours in the relevant communications without permission, which was reasonably capable of suggesting the communications were published or displayed with the authority of the AEC, when they were not; and

6.1.2. contravening section 321D of the Electoral Act by not including the required particulars in the authorisation of the relevant communications, namely a full street address.

7. Undertaking

7.1. Pamela Winfield undertakes for the purposes of section 114 of the Regulatory Powers Act to take steps to prevent the future communication of unauthorised or improperly authorised electoral matter by:

7.1.1. informing herself of the requirements to authorise certain communications of electoral matter under section 321D of the Electoral Act; and

7.1.2. familiarising herself with guidance material on the AEC website on authorising the communication of electoral matter (www.aec.gov.au/About_AEC/Publications/backgrounders/authorisation.htm and Authorisation of Political Communications: Better Practice Guide);

7.1.3. not using the AEC logo or branding on any future communications without the prior express written consent of the AEC;

7.1.4. in the event that she communicates electoral matter that requires an authorisation pursuant to section 321D of the Electoral Act, that she will comply with all requirements of section 321D (or its successor); and

7.1.5. in the event that she intends to communicate electoral matter that requires an authorisation pursuant to section 321D of the Electoral Act, within the next six (6) years, provide a copy of the intended communication to the Electoral Commissioner, at an email address specified by the Electoral Commissioner from time-to-time, in advance of the communication.

7.2. Pamela Winfield undertakes that she will pay any costs associated with her compliance with this Undertaking.

8. **Acknowledgments**

8.1. Pamela Winfield acknowledges that:

8.1.1. the AEC will make this Undertaking publicly available including by publishing it on the Transparency Register in accordance with s 384A of the Electoral Act;

8.1.2. the Electoral Commissioner and officials of the AEC will, from time to time, make public reference to this Undertaking and the circumstances giving rise to the Undertaking;

8.1.3. this Undertaking in no way derogates from the rights and remedies available to the Electoral Commissioner, the Commonwealth or any other person arising from the Conduct;

8.1.4. if this Undertaking has not been withdrawn or cancelled and the Electoral Commissioner considers that Pamela Winfield has breached this Undertaking, the Electoral Commissioner may apply to the Federal Court of Australia, as the relevant court for orders to enforce this Undertaking, including an order directing Pamela Winfield to compensate any other person who has suffered loss or damage as a result of the breach;

8.1.5. this Undertaking is given freely.

9. **Commencement of this Undertaking**

9.1. This Undertaking comes into effect when the Undertaking is:

9.1.1. executed by Pamela Winfield; and

9.1.2. the executed Undertaking is accepted by the Electoral Commissioner.

Executed by

Pamela Winfield

6/11/26

Date

Accepted by the Electoral Commissioner pursuant to s 114(1) of the *Regulatory Powers Act*

Name: Jeff Pope

Electoral Commissioner

25/11/26

Date