

**NOTICE OF DECISION ON PARTY REGISTRATION  
APPLICATION TO CHANGE A PARTY NAME AND LOGO AND  
ENTER AN ABBREVIATION IN THE REGISTER OF POLITICAL  
PARTIES (THE REGISTER) – APPROVED –**

**KATTER’S AUSTRALIAN PARTY**

**Notice of decision under subsection 134(6) of the *Commonwealth Electoral Act 1918*  
and Statement of Reasons**

I am writing in accordance with subsection 134(6) of the *Commonwealth Electoral Act 1918* (the Electoral Act) to notify you of the determination of the application to change the name and logo and enter an abbreviation of the Katter’s Australian Party (the Party) in the Register.

I am authorised to determine this application under section 134 of the Electoral Act as a delegate of the Electoral Commission.

**Decision**

I have decided to approve the application to change the name and logo and enter an abbreviation of the party name. Consequently, I have entered the following details in the Register:

Name of party:	Katter’s Australian Party (KAP)
Abbreviation of name:	KAP
Party logo:	<b>KAP</b>

My reasons appear below.

**Materials I have taken into account**

In making my decision, I have had regard to:

- the application to change the name and logo and enter an abbreviation of the party name in the Register received by the Australian Electoral Commission (AEC) on 15 February 2019;
- 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;
- written particulars received by the AEC in response to the subsection 132(1) notice from Max;
- the reply submitted to the AEC by the Party under subsection 132(5) of the Electoral Act to the written particulars of Max;
- the *Register of Political Parties* of each Australian state and territory; and
- the *AEC Party Registration Guide*.

## Findings of Fact

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

### Party name and abbreviation

The Party's proposed name "Katter's Australian Party (KAP)" and proposed abbreviation "KAP":

- 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 registered political party;
- do not so nearly resemble the name, 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 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 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 a recognised political party that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym.

Accordingly, on the basis of the materials before me, I am satisfied that the proposed Party name and abbreviation meets the requirements of section 129 of the Electoral Act.

### Party logo

The logo set out in the application:

- is not obscene;
- 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 suggest that a connection or relationship exists between the applicant and a registered political party if that connection or relationship does not in fact exist;
- does not comprise the words "Independent Party";
- does not 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 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 or overprinting and 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 this instrument commences.

Accordingly, on the basis of the materials before me, I am satisfied that the proposed Party logo meets the requirements of subsection 126(2AA) and section 129A of the Electoral Act and the specifications described in *Commonwealth Electoral (Logo Requirements) Determination 2016*.

### **Written particulars received objecting to the Party's application**

#### Legislative framework – written particulars

Subsection 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.

Paragraph 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 section 126 of the Electoral Act; or
- (iii) the application should be refused under section 129 of the Electoral Act; or
- (iv) the Electoral Commission should refuse to enter a logo of the Party in the Register under section 129A of the Electoral Act.

A delegate of the Electoral Commission made a decision that the written particulars received from Max addressed the requirements of paragraph 132(2)(b) of the Electoral Act.

The AEC published the written particulars received by Max on the AEC website and provided the written particulars, including a notice inviting a reply, to Mr Thomas Harris, Registered Officer of the Party. Mr Harris submitted a response to the written particulars and the Party's response was published on the AEC website in accordance with subsection 132(6) of the Electoral Act.

#### Objection to the Party's application

Max objected to the application on the basis it should be refused under section 129A of the Electoral Act. Max did not object to the Party's proposed name or abbreviation.

Max's objection included that:

- "I wish to object to the application to change the name and logo and enter an abbreviation of a registered political party in the \*Register of Political Parties\* made by \*Katter's Australia [sic] Party under s129A(b), s129A(c) of the Electoral Act 1918";

- “The application in question nominates a logo which “is the logo of any other person”. Those persons being identified via the links noted [1, 2, 3]. Thus the application should be rejected under s129A(b)”;
- “The application in question nominates a logo which “so nearly resembles the logo of any other person that it is likely to be confused with or mistaken for that logo”. Those persons being identified via the links noted [1, 2, 3]. Thus the application should be rejected under s129A(c)”;
- “Note: the interpretation of “person” in the Acts Interpretation Act 1901 s2C: References to persons (1) In any Act, expressions used to denote persons generally (such as “person”, “party”, “someone”, “anyone”, “no-one”, “one”, “another” and “whoever”), include a body politic or corporate as well as an individual”.

Max also provided website links to a Global Brand Database.

#### Response from the Party to Max’s objection

The Party’s response to Max’s objection included that:

- “Katter’s Australian Party is a political organisation in Australia only; we are not a corporation or business entity at all”;
- “We engage in no business or active enterprise within Australia or overseas”;
- “We believe that being a political party only, no business practice or entity will be disadvantaged by our change of name, or use of this new logo in any way”;
- “We believe that being a political party only, no business practice or entity will be disadvantaged by our change of name, or use of this new logo in any way”.

#### **My consideration**

Max’s objection to the Party’s proposed logo under paragraph 129A(b) of the Electoral Act states that the logo “‘is the logo of any other person’. Those persons being identified via the web links noted [1, 2, 3].”

In the Administrative Appeals Tribunal’s (AAT’s) decision of *Watson v AEC and Anor* (Watson), The AEC submitted that:

- “a logo could be the logo ‘of’ another person because that person was the holder of a registered or unregistered trade mark in the logo or because the logo had been used by a person in such a way that it had come to be identified with that person in the minds of electors. However, if the logo simply comprises a generic image or symbol that was not identified with any person but was simply associated with particular beliefs, ideas or ideologies, then the requirements of s 129A would not be satisfied and there would be no basis to refuse the application for registration”

In Watson, the AAT:

- “formed the opinion that the words ‘is the logo of’ extend beyond issues of ownership and include use of the logo by any other person [paragraph 67]; and
- “The Tribunal accepts that a logo may be a logo of more than one person but each such logo must be considered” [paragraph 78].

In the Watson decision the AAT stepped out the process for applying paragraph 129A(c) of the Electoral Act. The Tribunal described this as a three step test:

1. Identify the party logo;
2. Does the party logo **resemble** the logo of “any other person”?
3. If the answer to question (2) is yes, does the logo **so nearly resemble** the logo of any other person that it is likely to be confused with or mistaken for that logo?

In applying the three step test described in Watson to the evidence submitted by Max in support of his objection to the Party’s logo I consider that:

1. Max **has identified** the logo set out in the Party’s application;
2. The Party’s proposed logo does **resemble** the logo of “any other person” (for the reasons detailed below); and
3. The Party’s proposed logo **does not** so nearly resemble the logo of any other person that it is likely to be confused with or mistaken for that logo (for the reasons detailed below).

The Party’s proposed logo **does resemble** the logo of “any other person”

The Party’s proposed logo incorporates the image of the capitalised text ‘KAP’. This draws a resemblance to all of the logos that Max identifies in his objection:

The Party’s proposed logo **does not so nearly resemble** the logo of any other person that it is likely to be confused with or mistaken for that logo

I consider that Max has identified logos that look similar, or could be identical to the design of the Party’s logo – the initials KAP. The use of capitalised text KAP is a generic image that is used by several organisations and entities across the world as identified by Max.

However, I do not accept that the Party’s logo is likely to be confused with or mistaken for the logo of another party, or is one that a reasonable person would think suggests that a connection or relationship exists between the Party and a registered party.

A logo does not appear on a ballot paper in isolation. Ballot papers include the name of a candidate and, if applicable, the name or abbreviation of the registered political party that endorsed the candidate. On this basis the presence of the candidate’s name, the Party’s proposed name or abbreviation and the Party’s proposed logo on the ballot paper would be visually distinguishable from the entry of other candidates so that there is no real chance to create confusion or mistake on the part of the elector.

I consider that the Party’s proposed logo, for the purposes of paragraph 129A(c) of the Electoral Act, is not likely to be confused with or mistaken for the logo of any other person.

Accordingly, I am satisfied on the materials before me that there is no basis to refuse the application from the Party under sections 129 or 129A of the Electoral Act.

Other procedural application requirements

The application to change the name and logo of the Party and enter an abbreviation:

- was in writing, signed by the Party Secretary;

- set out the name and address of the applicants and particulars of the capacity in which each applicant makes the application; and
- was accompanied by a fee of \$500.

Accordingly, I am satisfied that the application meets the requirements of paragraph 134(1)(a) and subsection 134(2) of the Electoral Act.

On 5 March 2019, a delegate of the Electoral Commission determined that the application had passed the initial assessment and approved the advertisement of the application under paragraph 132(1)(c) of the Electoral Act. A notice of the application was advertised on the AEC website and in 10 major newspapers on 8 March 2019.

The AEC received written particulars objecting to the application which addressed the requirements of paragraph 132(2)(b) of the Electoral Act but were not sufficient to refuse the application.

For the reasons outlined above, I approve the application from the Katter's Australian Party to change a party's name and logo and enter an abbreviation in the Register, as a delegate for the purposes of Part XI of the Electoral Act.

### **Your review rights**

Under subsection 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.

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 by post to Locked Bag 4007, Canberra City ACT 2601.

### How do I request an internal review?

In accordance with subsections 141(2) and 141(3) of the Electoral Act, an application for review must:

- be in writing;
- specify the name of the applicant; and
- set out the reasons for making the application.

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?

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

Under subsection 141(4) of the Electoral Act, the Electoral Commission review an application for review 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?

If an internal review decision has been made by the Electoral Commission and you do not agree with that decision, a person whose interests are affected, and who are 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 their 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

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).

Should you have any further 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)

Gabrielle Paten  
Assistant Commissioner  
Delegate of the Electoral Commission

10 April 2019