

**NOTICE OF DECISION ON PARTY REGISTRATION  
APPLICATION TO CHANGE A PARTY NAME, ABBREVIATION AND  
LOGO IN THE REGISTER OF POLITICAL PARTIES (THE REGISTER)  
APPROVED  
AUSTRALIAN LIBERTY ALLIANCE**

**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, abbreviation and logo of the Australian Liberty Alliance (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, abbreviation and logo of the Party. Consequently, I have entered the following details in the Register

Name of party:	Yellow Vest Australia
Abbreviation of name:	YVA
Party logo:	

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, abbreviation and logo of the Party in the *Register of Political Parties* received by the Australian Electoral Commission (AEC) on 1 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 published on 26 February 2019 from:
  - Max on 26 March 2019 and;
- the reply submitted to the AEC by the Party under subsection 132(5) of the Electoral Act on 28 March 2019 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 "Yellow Vest Australia" and proposed abbreviation "YVA":

- 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.

The AEC received 17 written particulars objecting to the Party's application. A delegate of the Electoral Commission made a decision that one of the written particulars, which was received by Max, addressed the requirements of paragraph 132(2)(b) of the Electoral Act and 16 did not.

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 Ralf Schumann, Registered Officer of the Party. Mr Schumann 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 sections 129 and 129A of the Electoral Act.

Max's objection includes that the Party's proposed name "Yellow Vest Australia" is "unreasonably similar and likely to be confused with legitimate yellow vest movements".

In relation to the Party's proposed logo, Max's objection includes that "under S192A(c) [sic] a logo is prohibited if it so nearly resembles the logo of another person that it is likely to be confused or mistaken for that logo. It is on these grounds I submit part of my objection". Max also submits that the proposed logo is "unreasonably similar and likely to be confused with legitimate yellow vest movements". In support of his objection, Max attached images of logos and content from a Facebook page and the Party's website.

Max's objection also includes that:

- "this is an attempt by ALA to co-opt the Yellow Vest brand and is grossly immoral and detestable"; and
- "ALA did not consult with YVA or other yellow vest movements and is deliberately attempting to mislead the Australian public into voting for them under false pretences".

Max does not address the Party's proposed abbreviation, "YVA", in the objection.

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

The Party's response to Max's objection includes that:

- the objection should be dismissed as "there is no section 192A in the Act on which an objection of this kind can be based";
- "the complainant refers to a number of Facebook pages which show the words 'Yellow' and 'Vest' as well as various depictions of a yellow hi-vis vest. The complainant fails to nominate any person as the supposed owner of intellectual property";
- "neither the depiction of a yellow hi-vis vest nor the words 'yellow', 'vest' or 'Australia' are the intellectual property of any natural person or incorporated entity"; and
- "there is no resemblance or possible confusion of our proposed name and logo with any other registered political parties".

#### **My consideration**

Max's objection to the Party's proposed name "Yellow Vest Australia" under s 129 of the Electoral Act states that the name is "unreasonably similar and likely to be confused with legitimate yellow vest movements". Max does not identify a recognised political party name or abbreviation with which the proposed name is likely to cause confusion or mistake. As such, I do not consider this submission by Max sufficient to require the Electoral Commission to refuse the application by the Party under s 129 of the Electoral Act.

Max's objection to the Party's proposed logo under s 129A of the Electoral Act states that the logo is "unreasonably similar and likely to be confused with legitimate yellow vest movements". Max supports his objection by attaching images of logos. Only one of these incorporates the image of a yellow vest. In its response the Party considers that the depiction of a yellow vest within an image of a logo is "generic".

In the Administrative Appeals Tribunal's (AAT's) decision of *Watson v AEC and Anor* (Watson), 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 the objection to the Party's logo the AEC considers 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"

Insofar as the Party's proposed logo incorporates the image of a vest, this draws a resemblance to the logo that Max identifies in the 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

There are stylistic differences between the Party's proposed logo and the logo identified by Max. For example, the logo identified by Max:

- do not contain an image of the map of Australia;
- include the text "Yellow Vests Australia and Worldwide"; or
- include the text "CIR", "RIC", "Citizens Initiated Referendums" and "Power to the People".

The Party's proposed logo contains the image of a vest with two horizontal stripes. The logos identified by Max do not incorporate horizontal stripes.

Due to these stylistic and design differences, the Party's proposed logo does not so nearly resemble the logos identified by Max that it is likely to be confused or mistaken for those logos.

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, abbreviation and logo of the Party:

- was in writing, signed by three members of the Party;
- 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)(b) and subsection 134(2) of the Electoral Act.

On 20 February 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 26 February 2019.

The AEC received written particulars objecting to the application which addressed the requirements of paragraph 132(2)(b) of the Electoral Act.

For the reasons outlined above, I approve the application from the Australian Liberty Alliance to change a party's name, abbreviation and logo 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)

(signed)

Gabrielle Paten  
Assistant Commissioner  
Delegate of the Electoral Commission

7 April 2019