

File reference LS7351

Mr Frank [REDACTED]  
Registered Officer  
Child Protection Party  
[REDACTED]  
[REDACTED]

Dear Mr [REDACTED]

**Notice of decision under subsection 141(7) of the *Commonwealth Electoral Act 1918* and Statement of Reasons**

1. I refer to your application to the Electoral Commission (the Commission) for review of the decision by a delegate of the Australian Electoral Commission (AEC) to refuse the application to enter the Child Protection Party (the Party) as a non-Parliamentary party in the *Register of Political Parties*, received by the AEC on 15 January 2019.
2. This letter is to notify you, in accordance with subsection 141(7) of the *Commonwealth Electoral Act 1918* (the Electoral Act), that on 29 March 2019, the Commission decided to **set aside** the decision under review, and **substitute** a new decision to enter the Party as a non-Parliamentary party, and the Party's logo, in the *Register of Political Parties*.

**Application for review**

3. On 15 January 2019, a delegate of the Commission issued a notice in accordance with subsection 133(3) of the Electoral Act notifying you, as Registered Officer of the Party, of her decision of 14 January 2019 to refuse the Party's application to enter the Party in the *Register of Political Parties*.
4. On the same day, the AEC received by email from you an application for review by the Commission of the delegate's decision to refuse to register the Party. The reason you provided for making the application was that, on 7 November 2018, you mistakenly provided an outdated version of the Party's membership list, which you were providing pursuant to subsection 131(3) of the Electoral Act.
5. On 4 February 2019, the AEC sent you an email inviting the Party to submit a revised list of the names of the 500-550 members to be relied upon for the purposes of registration.

6. On 5 February 2019, you sent an email to the AEC attaching a list of the names of the 550 members for consideration by the Electoral Commission in its review of the delegate's decision to refuse to register the Party.

### Decision

7. The Commission has reviewed the delegate's decision of 14 January 2019 to refuse the registration of the Party and, pursuant to subsection 141(4) of the Electoral Act, has **set aside** that decision and **substituted** for it a new decision to enter the Party as a non-Parliamentary party, and the Party's logo, in the *Register of Political Parties*.

### Reasons for Decision

8. Based on the materials before the Commission, the Commission has determined that the Party's application for registration meets the legislative requirements set out in Part XI of the Electoral Act. The reasons for the Commission's decision are set out below.

### Material taken into account

9. In making this decision, the Commission had regard to:
  - the initial application to register the Party as a non-Parliamentary party dated 12 July 2018 and received by the AEC on 3 August 2018;
  - the varied application of 16 October 2018, made under subsection 131(3) of the Electoral Act, including a revised Party logo in PDF format;
  - the results of the testing of that logo;
  - the delegate's decision of 14 January 2019 to refuse to enter the Party in the *Register of Political Parties* under Part XI of the Electoral Act, including the notice of decision and statement of reasons provided under subsection 133(3) of the Electoral Act;
  - the Party's request of 15 January 2019 for review by the Commission of the delegate's decision to refuse to register the Party of 14 January 2019, including the reasons for review set out in the request;
  - the updated list of names of the 550 members to be relied on for the purposes of registration in the Commission's review, provided by the Party on 5 February 2019;
  - the results of the testing of that list of names conducted by the AEC in accordance with the sampling methodology developed by the Australian Bureau of Statistics (ABS);
  - Part XI of the Electoral Act, in particular, sections 4, 123, 126, and 141;
  - the Register of Political Parties of each Australian state and territory;
  - the AEC *Party Registration Guide*; and
  - the *Commonwealth Electoral (Logo Requirements) Determination 2016*.

## Findings of Fact

10. On the material before the Commission, the Commission makes the following findings:

### Procedural application requirements

11. The initial application for registration of 3 August 2018:
- was in writing, signed by the applicants and the person who is to be the registered officer of the party;
  - 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;
  - stated that the Party wishes to receive moneys under Division 3 of Part XX of the Electoral Act;
  - set out the names 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.
12. Accordingly, the Commission is satisfied that the application for party registration meets the requirements of paragraphs 126(2)(c), 126(2)(d), 126(2)(e) and 126(2)(g) of the Electoral Act.

### Party name and abbreviation

13. The Party Name 'Child Protection Party', and the abbreviation 'CPP':
- does not comprise more than 6 words;
  - is not obscene;
  - is 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;
  - does 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;
  - is not one that a reasonable person would think suggests that a connection or relationship exists between the Party and a registered party;
  - 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.

14. Accordingly, the Commission is satisfied that the proposed name and abbreviation of the Party meet the requirements of section 129 of the Electoral Act.

#### Party logo

15. In its initial assessment of the logo submitted by the Party for entry into the *Register of Political Parties*, the AEC was required to refuse the application for registration of the logo on the grounds that it was not in PDF format as required by subsection 5(f) of the *Commonwealth Electoral (Logo Requirements) Determination 2016*.

16. On 16 October 2018, the Party lodged by email a revised party logo in PDF format with its written request under subsection 131(3) to vary its registration application. That version of the logo was relied upon for the purposes of the review by the Commission.

17. The proposed logo:

- 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 applicant and a registered political party if that connection or relationship does not in fact exist; or
- does not comprise the words “Independent Party” or comprise or contain the word “Independent” and:
  - the name, or an 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.

18. Accordingly, the Commission is satisfied that the proposed logo meets the requirements of section 129A of the Electoral Act and the *Commonwealth Electoral (Logo Requirements) Determination 2016*.

#### Party constitution

19. The Commission is satisfied that the Party’s constitution meets the requirements of having a written constitution set out in the definition of ‘eligible political party’ in subsection 123(1) of the Electoral Act and in accordance with the definition of ‘political party’ in section 4 of the Electoral Act.

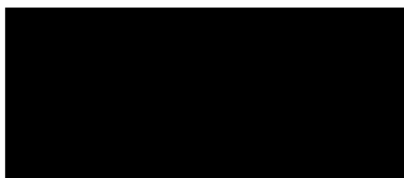
### Membership list

20. On 5 February 2019, the Party submitted an updated list of the names of 550 members to be relied on for the purposes of registration.
21. AEC staff cross-checked this membership with the Commonwealth Electoral Roll (the Roll), as required by subsection 123(3) of the Electoral Act. These searches identified that:
  - five of the 550 submitted members could not be matched to the Roll;
  - one name was identified as a duplicate within the listed members; and
  - three listed members were identified as members of other registered political parties.
22. Accordingly, the AEC proceeded to test a sample of the remaining 541 members.
23. In accordance with the methodology devised by the ABS, a list of 541 members requires a random sample of 47 contactable members to confirm they are members of the Party, with up to six denials of membership allowed in order for the Commission to have statistical confidence that the Party has 500 members.
24. The AEC attempted to contact 71 persons on the list of members, as some of those listed were unable to be contacted, did not respond or provided a neutral response. Of the 47 responses received, 43 persons confirmed their membership, while four denied membership of the Party.
25. As the number of denials did not exceed the six permitted for a sample of this size in accordance with the sampling methodology developed by the ABS, the Commission **is satisfied** that the Party meets the minimum membership requirements of paragraph 126(2)(ca) of the Electoral Act.

### Summary of Decision

26. The Commission has **set aside** the decision of the delegate to refuse to register the Party, and has **substituted** for it a decision to enter the Party as a non-Parliamentary party, and the Party's logo, in the *Register of Political Parties*.
27. A statement of review rights in respect of this decision is enclosed.

Yours sincerely



The Hon Dennis Cowdroy OAM QC  
Chairperson

April 2019



Mr Tom Rogers  
*Electoral Commissioner*  
[redacted] April 2019



Mr David Kalisch  
Australian Statistician  
(non-judicial member)  
[redacted] April 2019

## Your review rights

Under subsection 141(5) of the Electoral Act, a person (including an organisation) affected by the decision who is dissatisfied with the decision may make an application to the Administrative Appeals Tribunal (the AAT) for review of this decision.

### How do I make an application to the AAT for a review of a decision?

In accordance with section 29 of the *Administrative Appeals Tribunal Act 1975*, the application must be made:

- in writing;
- be accompanied by any prescribed fee;
- contain a statement of reasons for making the application;
- a copy of this notice of decision and statement of reasons; and
- made within the prescribed time.

Your application should also:

- specify the name of the applicant; and
- include an address at which documents may sent to.

More information on how to apply to the AAT 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).

### Prescribed fee

The standard application fee is \$920. You may be entitled to pay a reduced fee of \$100 in certain circumstances.

If you pay the standard application fee, and the case is resolved in your favour, the difference between the fee you paid and \$100 will be refunded. There is no refund if you paid the reduced fee of \$100.

Further information about fees is available on the AAT website:

<http://www.aat.gov.au/applying-for-a-review/fees>.

### Prescribed time for making an application

You may apply for review from the period commencing on the day on which the decision is made, being 29 March 2019 and ending on the twenty-eighth day after this letter was given to you.

The AAT may extend the time for making an application to the AAT for a review of a decision if, an application is made in writing to the AAT and the AAT is satisfied that it is reasonable in all the circumstances to do so.

### Conduct of a review by the AAT

The AAT can exercise the same powers and discretions as the Commission to make a decision on an application to register a party in the *Register of Political Parties* afresh and made a decisions 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; or
    - remit the matter for reconsideration in accordance with any directions or recommendations of the AAT.

Further information about the review process can be found on the AAT website:

<http://www.aat.gov.au/steps-in-a-review/overview-of-the-review-process>

### 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 this decision, please contact the Commission Secretariat by emailing [commission.secretariat@aec.gov.au](mailto:commission.secretariat@aec.gov.au).