

NOTICE OF PARTY REGISTRATION DECISION APPLICATION TO REGISTER A NON-PARLIAMENTARY PARTY IN THE REGISTER OF POLITICAL PARTIES REFUSED DONKEY VOTE

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

I am writing in accordance with subsection 133(3) of the Electoral Act to notify you of the determination of the application from Donkey Vote (the Party) to be registered as a non-Parliamentary party in the *Register of Political Parties* (the Register).

I am authorised to determine this application for party registration under section 133 of the Electoral Act as a delegate of the Electoral Commission.

On 6 December 2019, a delegate of the Electoral Commission issued the Party a notice in accordance with subsection 131(1) of the Electoral Act to notify the Party that, after initial consideration of the application for the registration of the Party, the delegate was of the opinion that they would be required to refuse the application, and invited the Party to lodge with the Electoral Commission a written request to:

- vary the application by submitting a revised party logo and membership list; or
- proceed with the application in the form in which it was lodged.

On 16 December 2019, the Australian Electoral Commission (AEC) received a written request signed by the applicants to vary the application by providing a revised membership list. Deficiencies in this list were identified and a further revised membership list was provided to the AEC on 3 February 2020.

Accordingly, my determination was based on the application for party registration as varied.

Decision

I have decided to refuse the application to register the Party as a non-Parliamentary Party in the Register.

Materials I have taken into account

In making my decision, I have had regard to:

- the application to register as a non-Parliamentary party as varied, received by the AEC on 3 February 2020;
- Part XI of the Electoral Act;
- *Commonwealth Electoral (Logo Requirements) Determination 2016*;
- the Register and the Register of Political Parties of each Australian state and territory; and
- the AEC's *Party Registration Guide*.

Findings of Fact

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

Party constitution

The constitution provided in the application for registration:

- is in writing; and
- sets out the aims of the Party, at least one of which being promoting the election of its candidates to the Senate and/or House of Representatives.

I am satisfied that the Party's constitution meets the definition of an *eligible political party* set out in paragraph 123(1)(b) of the Electoral Act.

Party name and abbreviation

The Party name Donkey Vote, and the abbreviation DV:

- 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 recognised 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 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 that 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 name and abbreviation meet the requirements of section 129 of the Electoral Act.

Party logo

The logo set out in the application for registration has been assessed against the specifications described in *Commonwealth Electoral (Logo Requirements) Determination 2016* and has not met the requirements because:

- Colour other than 100% black used:
Elements must be 100% black within this document. This condition can sometimes be triggered by the inclusion of colour profiles or elements that are white.

As the logo failed to meet the technical requirements for a valid logo, a background check of the logo was not performed, and the logo was not assessed against section 129A of the Electoral Act.

Accordingly, on the basis of the materials before me, I am **not** satisfied that the proposed logo submitted with the Party's application meets the requirements of subsection 126(2AA) of the Electoral Act and the specifications described in *Commonwealth Electoral (Logo Requirements) Determination 2016*.

Other procedural application requirements

The application for registration as a political party:

- 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;
- advised whether the Party wishes to receive moneys under Division 3 of Part XX of the Electoral Act;
- 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 for party registration meets the requirements of paragraphs 126(1)(b), 126(2)(c), 126(2)(d), 126(2)(e) and 126(2)(g) of the Electoral Act.

Membership list

The revised version of the membership list submitted by the Party contained 510 members. 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:

- 21 of the 510 submitted members were unable to be matched to the Roll.

Accordingly, only 489 members were able to be matched to the roll. As the Party did not meet the requisite 500 members identified on the Roll, membership testing was not conducted.

Based on the above information, I am **not** satisfied the Party meets the requirements of paragraph 126(2)(ca) of the Electoral Act.

For the reasons outlined above, I refuse the application from Donkey Vote for registration as a non-Parliamentary party in the Register, as a delegate of the Electoral Commission 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 or posted 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 shall 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 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 their website:

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.

Should you have any queries contact the AEC on 02 6271 4552, visit www.aec.gov.au or email fad@aec.gov.au

Yours sincerely

(signed)

Joanne Reid
Acting Assistant Commissioner
Delegate of the Electoral Commission

9 April 2020