

NOTICE OF PARTY REGISTRATION DECISION APPLICATION TO CHANGE A LOGO IN THE REGISTER OF POLITICAL PARTIES APPROVED JACQUI LAMBIE NETWORK

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

1. I am writing in accordance with s 134(6) of the Electoral Act to notify you of the determination of the application to change the logo of Jacqui Lambie Network ('the Party') in the *Register of Political Parties* ('the Register').
2. I am authorised to determine this application to change the Register ('the Application') under Part XI of the Electoral Act as a delegate of the Electoral Commission.

Decision

3. I have decided to approve the Application. Consequently, I have entered the following change in the Register:

current registered name **Jacqui Lambie Network**

*the image displayed here is the
registered party logo for
Jacqui Lambie Network:*



Materials I have taken into account

4. In making my decision, I have had regard to:
 - the Application to change a logo of the Party in the Register received by the Australian Electoral Commission (AEC) on 17 January 2022;
 - 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 objecting to the Application (referred to as 'the objection') received from a person named 'Mark';
 - the response to the objection from the Party ('the Response');
 - the Register and the Register of Political Parties of each Australian State and Territory; and
 - the *AEC Guide for maintaining party registration*.

Findings of Fact

5. On the material before me, I make the following findings:
Procedural application requirements
6. Application was in writing, signed by the Secretary of the Party.

7. Accordingly, I am satisfied that the Application meets the requirements of ss 134(1)(b) and 134(2) of the Electoral Act.

Party Logo

8. The Party 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 Party and a registered political party if that connection or relationship does not in fact exist;
- does not comprise the words “Independent Party”;
- does not comprise or 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 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;
- does not contain a word that is in the name, or the abbreviation of the name, of a registered political party and therefore does not require consent from an existing registered political party;
- 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, overprinting, 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 of the commencement of the *Commonwealth Electoral (Logo Requirements) Determination 2016*.

9. Accordingly, on the basis of the materials before me, I am satisfied that the logo submitted with the Application meets the requirements of s 126(2AA) of the Electoral Act and the specifications described in *Commonwealth Electoral (Logo Requirements) Determination 2016* and that there is no basis to refuse to change the Party’s logo in the Register under s 129A of the Electoral Act.

Written particulars

10. Section 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:

- the application is not in accordance with s 134 of the Electoral Act; or
- the Electoral Commission should refuse to enter a logo of the Party in the Register under s 129A of the Electoral Act.

11. Section 132(7) of the Electoral Act provides that the Electoral Commission shall not register a political party, or change the Register in this case, unless it has considered any particulars submitted objecting to a party's application, and any reply to particulars that may have been submitted. Section 132 of the Electoral Act also outlines the administrative requirements for submitting and processing objections to an application.
12. On 17 February 2022, a Notice of the Application was advertised in 10 major newspapers and published on the AEC website in accordance with s 132(1) of the Electoral Act.

The objection to the Application

13. The Electoral Commission received one objection:

Written particulars from	Date received	Administrative requirements met	Grounds for objection under the Electoral Act
'Mark'	15 March 2022	Yes	s 129A

14. Summary of Objection from Mark:

'The use of the full name of sitting Senator Jacqui Lambie in the logo introduces voter confusion that does not exist with the current "JLN" logo. Considering Senator Jacqui Lambie is not a candidate in the 2022 election, the inclusion of her full name in the logo on the ballot paper and electoral material may lead people to believe they are voting for her as an individual rather than for someone who simply belongs to the same party.'

'The proposed logo conflates a person with the party, particularly with the emphasis placed on the word "Lambie" within the logo.'

'It should also be noted that the Jacqui Lambie Network political party has been preemptively using the proposed logo on election promotional material and will clearly spill into the 2022 election... This assumes the AEC to be a rubber stamp in the process of election administration.'

15. On 21 March 2022, the Party responded to the objection and the response was published on the AEC website in accordance with s 132(6) of the Electoral Act.
16. The response to the objection from the Party, states that:

'The objection should be dismissed in full. It suggests the logo will result in confusion on the following grounds:

1. the inclusion of an individual's name who is not a candidate at the 2022 federal election
2. the currently-registered logo does not result in voter confusion to the extent that the proposed logo would (and, presumably, that if the Electoral Commission wishes to promote voter comprehension they must insist on the unamended logo)'

'The identity of any candidates, for any election, are not known until candidates have nominated. Candidates cannot nominate until the writs for an election have been issued. It is axiomatic that Senator Jacqui Lambie is not a candidate for the 2022 election as there is not yet a 2022 election for which to nominate as a candidate.'

'The complaint appears to be about the use of a person's name in the party logo. This is flawed. The person's name (Senator Jacqui Lambie) appears in the registered name of the political party. It is plainly associated with the registered political party. If the objection were to be upheld, no political party can register a name or a logo featuring the name of any person. This would contradict standard practice.'

'[With] respect to (1), we note that it is routine for political parties featuring the name of a person in both registered name and registered logo to contest elections with candidates who do not share the name appearing in said registered details.'

'In 2019, Senator Hanson's political party, as named and shown in the logo, contested divisions in the House of Representatives with candidates who are not named Pauline Hanson. No Senate candidates in any state shared the name of Senator Hanson.'

'In 2013 and 2016, the Palmer United Party contested the election with candidates who did not share the name of the person whose name appeared in the logo.'

'The Nick Xenophon Team did the same in 2016.'

'With respect to reason (2) that the application for the logo change will result in confusion, there are reasons why this objection ought to be dismissed.'

'[A] more reasonable view may be that the application to amend the logo may in fact improve voter comprehension.'

'This is for two reasons:

1. as the objection acknowledges, the proposed logo for the Jacqui Lambie Network has been employed in a range of election materials by the Jacqui Lambie Network. This use has been prevalent in publicity in Tasmania. Voters who are familiar with the use of this logo and who associate the logo with the Jacqui Lambie Network may be confused by the absence of said logo and the presence of another which is unfamiliar; and
2. the currently-registered party logo does not feature the name of the party, but three-letter acronym. Voters who are seeking to locate their preferred party on a ballot paper may more easily identify it by locating the words that appear in the party's registered name, the Jacqui Lambie Network.'

'The objection claims that the application contravenes section 129A(1)(b) of the Electoral Act. This is because, the objection suggests, the logo "is the logo of any other person".'

'While the terms logo and person are not defined with section 129A, we submit that even on the broadest-possible interpretation this threshold has not been met. We say this is the case because of the use of other. There was no evidence of the use of the logo by any person or organisation prior to the use by the party which is known as the Jacqui Lambie Network. No other organisation can lay claim to the logo, has used the logo, or any elements contained within the logo.'

'For these reasons we contend that the objection is without merit.'

Consideration of the objection and the response

17. I am of the view that the objection has been made on the basis that the logo should be refused under s 129A of the Electoral Act.

18. Section 129A of the Electoral Act outlines the requirements for registering party logos. An objection to a party logo, which is made on the grounds of s 132(2)(b)(iv) of the Electoral Act, can be made against any of the requirements outlined under s 129A of the Electoral Act.
19. I have considered and reject the objection from 'Mark' for the following reasons.
20. Although the objection infers that it is based on s 132(2)(b)(iv) of the Electoral Act, the grounds for objecting are based on the opinion that:
- *'the logo introduces voter confusion that does not exist with the current "JLN" logo. Considering Senator Jacqui Lambie is not a candidate in the 2022 election, the inclusion of her full name in the logo on the ballot paper and electoral material may lead people to believe they are voting for her as an individual rather than for someone who simply belongs to the same party.'*
21. Section 129A of the Electoral Act provides:
- The Electoral Commission may refuse to enter a logo in the Register if, in its opinion, the applicant's logo:*
- (a) is obscene; or*
 - (b) is the logo of any other person; or*
 - (c) so nearly resembles the logo of any other person that it is likely to be confused with or mistaken for that logo; or*
 - (d) is 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*
 - (e) comprises the words "Independent Party" or comprises or contains the word "Independent" and:*
 - i. the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)); or*
 - ii. matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)) that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be.*
 - (f) contains a word that is in the name, or the abbreviation of the name, of a registered political party; and*
 - (g) the application is not accompanied by the written consent, to the use by the applicant of the word in its logo for the purposes of registration under this Part, of:*
 - i. if there is only one registered political party to which paragraph (a) applies—the registered political party's registered officer; or*
 - ii. otherwise—the registered officer of the first such political party to be registered.*
22. While the objection implies that the proposed logo would cause 'voter confusion' and that electors may vote 'for her as an individual rather than for someone who simply belongs to the same party' these are not relevant grounds for refusing to change (or enter) a logo in the Register under s 129A.
23. I reject the objection as the requirements of s 129 of the Electoral Act do not prohibit the use of a person's name in the Party logo, subject to it meeting the other requirements of ss 126(2AA) and 129A of the Electoral Act.

24. Furthermore, I reject the objection on the basis that the question in issue is if there are sufficient grounds to refuse to change the Party's registered logo, and if it '*so nearly resembles the logo of any other person that it is likely to be confused with or mistaken for that logo*'. The name of the Party is not in question.
25. In my initial consideration of the application, the AEC engaged a service provider to undertake background checks and searches of trademarked and licenced logos. These did not reveal there were any other 'persons' with that logo, that it could be confused with. Nor has the objector provided, or referred to, a specific entity (or person) that has the same or similar logo.
26. The Party's original logo was a silhouette shape of Australia, and inside the shape three letters consisting of "JLN". The proposed logo including the words "Jacqui Lambie Network" with a small shape of Tasmania in the upper right-hand corner, which, in my opinion provides further clarity as to the name of the Party.
27. I am satisfied that the Party logo is not the logo of any other person, nor does it so nearly resemble the logo of any other person that is likely to be confused with or mistaken for that logo. Furthermore, it does not contain a word that is in the name, or the abbreviation of the name, of a registered political party.
28. The objection has not been supported by evidence that the Party's Application has failed to satisfy any of the requirements under ss 134 or 129A of the Electoral Act.
29. Therefore, I do not consider the grounds provided by any objector to be sufficient to refuse to change the Party logo within the meaning of ss 126(2AA), 126(2AB), and 129A of the Electoral Act.
30. I have also considered the response lodged by the Party on 21 March 2022.
31. The Party's response to the objection stated, *'[t]here was no evidence of the use of the logo by any person or organisation prior to the use by the party which is known as the Jacqui Lambie Network. No other organisation can lay claim to the logo, has used the logo, or any elements contained within the logo.'*
32. In summary, the proposed logo is not prohibited under s 129A of the Electoral Act and accords with the requirements set out in ss 126(2AA) and 126(2AB) of the Electoral Act.
33. For the reasons outlined above as a delegate of the Electoral Commission for the purposes of Part XI of the Electoral Act, I approve the Application to change the logo of Australian Federation Party in the Register.

Your review rights

34. Under s 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.
35. 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 by post to Locked Bag 4007, Canberra City ACT 2601.

How do I request an internal review?

36. In accordance with ss 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.
37. 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?

38. The Electoral Commission, which is comprised of three members: the Australian Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews.
39. Under s 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?

40. 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 its website: www.aat.gov.au/applying-for-a-review/how-to-apply.

Freedom of Information

41. 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.
42. Should you have any queries regarding party registration, please contact the AEC on 02 6271 4552, visit www.aec.gov.au or email fad@aec.gov.au.

Yours sincerely
(signed)

Joanne Reid
Assistant Commissioner, Delegate of the Electoral Commission
29 March 2022