

# Australian Electoral Commission Meeting No. 273

**Date:** Friday 3 September 2021 **Time:** 10:00am **Location:** Microsoft Teams

### Attendees:

The Hon. Justice Susan Kenny AM (Chair);  
Mr Tom Rogers (Electoral Commissioner);  
Dr David Gruen (Australian Statistician)

**Action Officer:** section 47F (Commission Secretariat)

### Agenda

#### Item

1. Welcome
2. Party Registration – overview of process
3. Commission paper –
4. Closing

### Agenda item 1: Welcome and Commissioner's introduction

The Chair opened the meeting at 10:00am. Mr Tom Rogers acknowledged the traditional owners of the land and welcomed the three-person Australian Electoral Commission (the Commission) members; the Hon. Justice Susan Kenny, and Dr David Gruen.

## **Agenda item 2: For discussion: Membership testing process and approach**

Mr Rogers provided an update on amendments to the *Commonwealth Electoral Act 1918* (the *Electoral Act*). The amendments require a change to the membership testing methodology used by the AEC. This change to the methodology due to an increase of the minimum number of members for a party to register as a non-parliamentary party.

Mr Rogers noted that any changes will require consideration and a decision from the Commission. The current *membership testing process* was endorsed by the Commission on 20 March 2017, and was most recently discussed by the Commission following the briefing by Dr David Gruen and staff from the ABS on 11 June 2021.

*Mr Rogers noted that it was likely that there will be 35 federally registered non-Parliamentary parties that will require a review, along with any further parties that may apply for registration.*

Mr Rogers referred to meeting paper 2. *Commission agenda item - party registration membership testing* and summarised the five approaches for the consideration of the Commission.

The Chair noted the significant administrative burden that Option Three may have if the AEC was to email more than 1,500 people in each party.

The Chair also noted that the introduction of the Bill would indicate that there is a desire to maintain a high level of scrutiny. Options Four and Five would reduce that level of scrutiny, and thus, would not align with the intent of the legislation.

Dr Gruen noted a point raised in an application for review; non-responses could theoretically bring the number of members relied upon for a membership list under the minimum required number to be registered as a non-parliamentary political party.

Dr Gruen raised that if an external provider has the resources at hand there may not be a continued need for a sampling methodology. The Chair agreed.

Mr Rogers noted that there is a need to continue to uphold the security and integrity of the electoral roll. Mr Rogers noted the intermediate option to investigate the possibility of utilising another government department to conduct the membership testing.

Mr Rogers noted that two elements to address would be cost and the capacity of the other organisation to undertake the testing.

### **Commission decision:**

***Investigate Option 2 from the meeting paper 2. Commission agenda item - party registration membership testing before a further decision is made.***

### Agenda item 3: For information: Update on current matters before the Commission

Mr Rogers provided an update on current matters that are not yet ready for decision by the Commission. Mr Rogers noted that at this point there are three live applications for review underway. All three applications are party registration decisions that have been submitted under s141 of the Electoral Act.

#### *Small Business Party*

The Small Business Party (SBP) was deregistered by the delegate on 23 August 2021. The original decision was based on a failure to meet the required number of members.

An application for review was made by the Registered Officer of the party, **section 47F**, on 27 August 2021.

No membership list has been provided yet; the deadline for further information is 30 September.

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#### *The Seniors United Party of Australia*

The Seniors United Party of Australia (SUPA) was deregistered by the delegate on 9 March 2021. The original decision was based on a failure to meet the required number of members.

An application for review was submitted by a member of SUPA, **section 47F** on 21 March 2021. **section 47F** has provided information appealing the decision, but not a membership list.

A request for an updated membership list was sent to SUPA on 7 July 2021. The Party have made several requests for extra time. The current deadline for the provision of any additional information is 25 September 2021.

The party has indicated that the continued lockdown in NSW may result in further requests for an extension of time.

The party has been made aware that, as the party is currently not registered, there is a risk that SUPA will not be registered when an election is called.

**section 42**

Commission members discussed the two applications for review and decided that correspondence should be provided to SBP and SUPA, regarding the impact of the amendments to the *Electoral Act*.

**Decision: Provide the Small Business Party and the Seniors Uniter Party of Australia with awareness that the legislation will change the minimum number of members required to form a parliamentary party.**

## *The New Liberals*

Mr Rogers raised that as part of the application for review, the leader of The New Liberals, Mr Victor Kline, has requested that the Electoral Commissioner recuse themselves from the review. Mr Rogers indicated that he sees no basis to recuse himself from the review, with the Chair and Dr Gruen agreed.

The New Liberals were registered as a non-parliamentary party on 3 June 2021. Mr Andrew Hirst of the Liberal Party of Australia lodged an application for review under s141 in regards to this decision. The issues raised by the application of :

- The name 'The New Liberals' is too similar to the name 'Liberal Party of Australia' (s129 (1)(d) and (da) of the Electoral Act)
- The New Liberals are not able to meet the membership requirements due to non-contacts. (s126 (2)(ca) of the Electoral Act)

The New Liberals were advised of an application for review and provided a redacted version of the objection. Mr Kline submitted further material for the consideration of the commission

Mr Kline has indicated publically that the party will lodge an application to change their name. The name change is not yet publically available on the Australian Electoral Commission website<sup>0</sup>

The Commission agreed that further action should be undertaken when the name change is published on the Australian Electoral Commission website.

The Commission further agreed to review the legal advice received on this issue and discuss at a future meeting, noting that the Commission undertake a de novo review of this matter under s141 of the *Electoral Act*.

### **Agenda item 4: Closing**

The Chair thanked members for attending and closed the meeting at 11:30am.