

# Minute

File reference: 18-19-031, 18/581

**To:** Joanne Reid  
A/g Assistant Commissioner  
Disclosure, Assurance and Engagement

**Subject:** For Action – application under subsection 126(3) of the *Commonwealth Electoral Act 1918* (the Electoral Act) for registration as a political party – issue of notice allowing variation of application – Stop Selling Australia Party

## Purpose

This minute asks you, as a delegate of the Electoral Commission, to give notice to the applicant of the Stop Selling Australia Party (the Party) under subsection 131(1) of the Electoral Act. This notice will give the Party the opportunity to vary the application so refusal of the application may not be required.

## Authority

Sections 4, 123, 126, 129 and 131 and subsections 4(1) and 123(1) of the Electoral Act.

## Background

On 24 November 2018, the Australian Electoral Commission (AEC) received all of the requirements from the Party for an application for registration as a non-Parliamentary party under paragraph 126(1)(b) of the Electoral Act (folio 52). The application included a copy of the Party's constitution (folio 16), an electronic list of between 500-550 members and a statutory declaration from the proposed Party secretary regarding the authenticity of these documents (folio 21). The Party indicated that it did not wish to register an abbreviation or party logo (folio 32). On 23 January 2019 and 22 February 2019 the Party provided updates to its membership list which impacted on the time taken to assess the application.

## Initial assessment of application

In the case of a non-Parliamentary party paragraph 126(1)(b) of the Electoral Act provides that the application may be made by 10 members of the party, of whom one is the secretary of the party. The application is made by 10 members of the Party, one of which is the Party secretary, and sets out the names and addresses of the applicants, and particulars of the capacity in which each applicant makes the application (folio 30).

## Assessment of constitution

Sections 4 and 123 of the Electoral Act define an eligible political party as an organisation the object or activity, or one of the objects or activities, of which is the promotion of the election to the Senate or to the House of Representatives of a candidate or candidates endorsed by it.

Subsection 123(1) of the Electoral Act defines an eligible political party as a political party that is "established on the basis of a written constitution (however described) that sets out the aims of the party".

The Party's constitution **meets this requirement** because:

- clause 3.2.16 states an objective of the Party is to “endorse Party candidates for Local, State and Federal elections” (folio 12).

#### Assessment of proposed party name

**Name sought:** Stop Selling Australia Party

Section 129 of the Electoral Act prohibits the registration of parties with certain names and abbreviations. An assessment of the proposed name was undertaken to ensure it did not contravene s 129. The proposed name:

- a) does not comprise more than six words
- b) is not obscene
- c) is not the name, abbreviation or acronym of the name of another political party (not being a political party that is related to the party to which the application relates) that is a recognised political party
- d) 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 to which the application relates) that is a recognised political party that it is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be
- da) is not one that a reasonable person would think suggests a connection or relationship exists between the party and a registered party if that connection or relationship does not in fact exist
- e) does not comprise the words ‘Independent Party’ or comprise or contain the word ‘Independent’ and:
  - i. the name, or an abbreviation or acronym of the name, of a recognised political party; or
  - ii. 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, as the case may be.

The federal Register was checked (folios 126-128) and that of each state and territory (folios 103-124) for parties with a similar name or abbreviation.

The following party names contained the word “stop”:

- Stop Population Growth Now Party (Electoral Commission of South Australia) (folio 110).

The following party abbreviations contained the word “stop”:

- Stop Population Growth Now (Electoral Commission of South Australia) (folio 110).

The above parties share the word “stop” but share no further similarities with the Party’s proposed name. The Party’s proposed name is not the same as that of a recognised political party. Further, there is enough of a difference between the Party’s name and the above name and abbreviation that it is not likely to be confused or mistaken, and a reasonable person would not think that a connection or relationship exists between the parties.

Based on this information the Party’s name **is not prohibited** under s 129 of the Electoral Act.

#### Assessment of membership

Subsection 123(1) of the Electoral Act defines an eligible political party as a political party that is either a Parliamentary party or has at least 500 members. Paragraph 126(2)(ca) of the Electoral

Act states that an application for registration must “include a list of the names of the 500 members of the party to be relied on for the purposes of registration”.

The membership list submitted by the Party contained 550 members. This list was checked automatically using RMANS, with 404 members identified on the electoral roll. A further 117 members were manually identified on the electoral roll using GENESIS while 29 members were unable to be matched to the roll.

Fifteen members were identified as duplicates within the list and three members were identified as cross party duplicates. See folio 100 for a breakdown of the membership numbers.

A list of 503 members requires contact with a random sample of 26 members under the formula provided by the Australian Bureau of Statistics (folio 94). For the AEC to be satisfied that the Party has the required 500 members, one denial of membership is permitted.

The relevant numbers for this membership test were:

1. the random sample size was 26
2. the AEC attempted to contact 52 members, as some members were uncontactable
3. the highest 26 responses were:
  - 24 confirmed membership
  - two denied membership.

A record of those contacted is at folio 96. Based on this information the Party's membership list **failed the membership testing assessment** of the application process.

The Party's application will be set aside until the deficiencies identified are rectified and an updated membership list is either resubmitted or the application withdrawn. This will be raised with the Party in the s 131 notice.

#### Other procedural application requirements

The **application meets** the requirements of paragraphs 126(2)(c), 126(2)(d), 126(2)(e) and 126(2)(g) of the Electoral Act as it:

- 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 that the Party wishes to receive moneys under Division 3 of Part XX of the Electoral Act
- set out the names and addresses of the applicants and particulars of the capacity in which each applicant makes the application, and
- was accompanied by a fee of \$500.

#### **Conclusion**

An assessment of the Party's application was undertaken and it was determined that:

- the Party's constitution **meets** the requirements of s 4 and s 123 of the Electoral Act
- the Party's name **is not prohibited under** s 129 of the Electoral Act
- the Party **does not meet** the membership requirements of subsection 123(1) and paragraph 126(2)(ca) of the Electoral Act
- the application **meets** the requirements of paragraphs 126(2)(c), 126(2)(d), 126(2)(e) and 126(2)(g) of the Electoral Act.

Based on this information, the Party's application, in its current form, **does not** satisfy the requirements of Part XI of the Electoral Act.

Subsections 131(1) and (3) of the Electoral Act provide that where the Electoral Commission is of the opinion that the application should be refused, the Electoral Commission shall give written notice to the applicant that it is of that opinion and that the applicant may lodge a written request varying the application in the manner specified.

The s 131 notice will advise the Party it has the option to:

- vary the application in the manner specified in the request; or
- proceed with the application in the form in which it was lodged.

Released under the Freedom of Information Act 1982

**Recommendation:**

That as a delegate of the Electoral Commission for the purposes of subsection 131(1) of the Electoral Act, you:

1. approve the notice under subsection 131(1) advising the registered officer of the Stop Selling Australia Party, [REDACTED], that the application will be refused in its current form but that the applicants may vary the application so that it will not have to be refused (Attachment A).

[REDACTED]  
A/g Senior Party Registration Officer  
Parliamentary and Party Registration  
March 2019

Reviewed by

[REDACTED]  
Director  
Parliamentary and Party Registration  
March 2019

**Approved / Not Approved**

Joanne Reid  
A/g Assistant Commissioner  
Delegate of the Electoral Commission  
March 2019