AEC reference: LEX9838

[redacted]

*By email:* [redacted]

Dear [redacted]

## Review of decision under s 141(4) of the *Commonwealth Electoral Act 1918* – notice of decision under s 141(7)

1. The Australian Electoral Commission ('the Commission') refers to your application dated 11 January 2026 for review under s 141 of *Commonwealth Electoral Act 1918* ('the Electoral Act') of the delegate's decision of 15 December 2025 to refuse the application to register the DLP ('the Party') as a non-Parliamentary party in the Register of Political Parties ('the Register') under s 133(1) of the Electoral Act.
2. A decision of a delegate of the Commission to refuse an application for the registration of a political party under Part XI of the Electoral Act is a reviewable decision within the meaning of s 141(1) of the Electoral Act.
3. Your application is made under s 141(2) of the Electoral Act. The application satisfies the statutory requirements for an application for review made under that provision.
4. This letter is to notify you that the Commission has reviewed the delegate's decision and **affirms** the decision under review.

## Notice of decision – s 141(7)

5. The Commission has reviewed the delegate's decision of 15 December 2025 to refuse to enter the Party into the Register.
6. The Commission has affirmed the decision under review pursuant to s 141(4)(a) of the Electoral Act.

## Reasons for making this decision

7. In making its decision, the Commission has had regard to:
    a. your application for review dated 11 January 2026;
    b. correspondence from the Commission Secretariat dated 31 March 2026 requesting a list of 1,500 members and explaining the basis for this request;
    c. your email dated 5 June 2026 confirming no further membership lists will be provided;

d. the material and other information before the delegate in making the delegate's decision, including the correspondence between you and the party registration team about the provision of a membership list;
e. the delegate's decision and the notice of the delegate's decision and statement of reasons dated 15 December 2025;
f. the methodology for testing membership lists as outlined in the AEC's Party Registration Guide (Guide) and published on its website (Methodology); and
g. Part XI of the Electoral Act.

8. In support of your application for review, you submitted that the basis of the delegate's decision to reject the Party's application for registration was an incorrect conclusion that the membership list supplied by the Party failed to comply with s 126(2)(ca) of the Electoral Act.

9. You submitted that the list provided with the Party's application, which contained the names and addresses of 2,521 persons identified as DLP members, satisfied the requirements of s 126(2)(ca), including the requirement that the Party have at least 1,500 members.

10. You contended that the delegate conflated the requirements of s 126(2)(ca) with the Methodology used by the AEC to assess compliance with membership requirements. In particular, you submitted that the delegate refused to accept the Party's membership list because, under the AEC's Methodology, 'only a list containing a maximum of 1,650 members will be accepted.'

11. In relation to the Methodology, you submitted that:

> Taking a small sample of a large membership list in order to assess whether the large list is statistically likely to have the required minimum 1500 members is valid grounds for accepting an application since this may be done on the balance of probabilities, but not valid grounds for rejecting it as the possibility remains, however low the probability, that the large membership list does in fact still have 1500 members and if it does, the AEC is legally required to accept it as it meets the requirements set out in the Act.

12. In substance, you accepted that sampling may provide a sufficient evidentiary basis for the Commission to be satisfied that a party has at least 1,500 members. However, you contended that an adverse result obtained using that Methodology could not establish that a party with a larger membership list did not, in fact, have the required number of members.

13. On that basis, you contended that the Methodology did not provide a legal basis for refusing an application that might otherwise satisfy the statutory requirements. You submitted that, by refusing to accept the list of 2,521 persons, the delegate acted contrary to the requirements of the Electoral Act, which requires the acceptance of an application for party registration which has at least 1,500 members.

14. You also submitted that, despite requests from the Party, the Commission had not identified the legal basis for its Methodology for assessing whether a non-Parliamentary party has 1,500 members.

15. In your response of 5 June 2026 to the Commission Secretariat's correspondence of 31 March 2026 setting out the legal basis for the Methodology, you maintained that the list of 2,521 persons identified as DLP members provided with the Party's application complied with the

requirements of the Electoral Act and you characterised the failure to register the Party as 'unlawful behaviour'.

16. For the following reasons, the Commission is not satisfied that the Party is an 'eligible party' within the meaning of s 123(1) of the Electoral Act as the Party has not provided a membership list that complies with the requirements of s 126(2)(ca) and the Commission cannot be satisfied the Party as at least 1,500 members.

Legislative requirements

17. The Commission notes that under s 123(1) an 'eligible political party' is defined as a political party that:

    (a) either:
        (i) is a Parliamentary party; or
        (ii) has at least 1,500 members; and
    (b) is established on the basis of a written constitution (however described) that sets out the aims of the party.

18. A 'Parliamentary party' means a political party where at least one member of the party is a member of the Parliament of the Commonwealth. The Party does not have a member elected to the Parliament of the Commonwealth.

19. Accordingly, the Party must have 'at least 1,500 members' to be an 'eligible political party'.

20. Section 126(2) sets out the requirements for registration of an eligible political party. Notably, under s 126(2)(ca) this includes:

> (ca) for an eligible political party that is not a Parliamentary party—include a list of the names of the 1,500 members of the party to be relied on for the purposes of registration

21. The Commission notes that the requirement to provide a list of the names of the 1,500 members to be relied on for purposes of registration under Part XI of the Electoral Act is the same for every non-Parliamentary party, regardless of the actual or estimated size of the relevant party's membership list.

22. The Commission considers that the ordinary English usage of the word 'the' in s 126(2)(ca) requires a party to supply a list of exactly 1,500 members and identify by name each of 'the members' that it seeks to rely on for registration as a political party.

23. Where a list contains more than 1,500 names, and does not identify the particular 1,500 members relied on for registration, the list does not satisfy the requirement in s 126(2)(ca).

24. The Party provided a list containing 2,521 names but, despite being invited to do so, has not identified the particular 1,500 members to be relied on for the purpose of its application.

Satisfaction in fact of at least 1,500 members for entry into the Register

25. In addition to the requirement for a non-Parliamentary party seeking registration to provide a list of the 1,500 members it seeks to rely on; the Commission must also be satisfied that the party has **in fact** at least 1,500 members. The Electoral Act does not stipulate how the Commission is to be satisfied of this.

26. Although the provision of a list in accordance with s 126(2)(ca) of the Electoral Act will be indicative, it is not determinative of the fact the Party has at least 1,500 members. The Electoral Act does not require the Commission to accept at face value a membership list supplied by an

applicant. The Commission is required to evaluate the membership list and to be satisfied that the party has, in fact, at least 1,500 members.

27. In order to assess whether a party has, in fact, at least 1,500 members, the Commission has identified and adopted an administrative process for assessing compliance with this requirement. The Methodology outlined in the Guide for Registering a Party ('the Guide') and elsewhere was adopted following advice from the Australian Bureau of Statistics ('ABS').

28. As outlined in the correspondence provided to you by the Commission Secretariat on 31 March 2026, s 7(3) of the Electoral Act supports the Commission's adoption of this administrative process. This correspondence provided an explanation for the basis of adopting a testing methodology and the decision to impose an upper limit on membership lists of 1,650 names. This decision was made on the basis that a party seeking registration, in many cases, is unable to rely on all the names included in a list of members. Allowing an extra 150 names to be provided is administratively efficient and effective for both the Commission and the party seeking registration.

29. Limiting the membership lists to no more than 1,650 names ensures that all non-Parliamentary parties are equally well positioned to meet the 'at least 1,500' members requirement for registration without improperly depleting Commission resources by requiring membership testing on needlessly large lists of names.

30. The Commission is of the view that s 7(3) of the Electoral Act provides a legislative basis for the process the Commission has adopted to ensure that it can be satisfied that a non-Parliamentary party meets the statutory criteria to be included on the Register of Political Parties.

Summary

31. In summary, the Commission has carefully considered your submissions but is unable to accept that the Party is an 'eligible party' within the meaning of s 123(1). This is because the list of 2,521 names provided by the Party on 28 November 2024 does not specifically identify by name the precise 1,500 members on which the Party wishes to rely on, and the Commission cannot be reasonably satisfied that the Party has at least 1,500 members.

32. The Commission repeats that were you to supply a list of between 1,500 and 1,650 members on which the Party wishes to rely on, the Commission would be happy to evaluate this list in accordance with the Guide and Methodology.

## Conclusion and review rights

33. The Commission has affirmed the decision under review pursuant to s 141(4)(a) of the Electoral Act.

34. A statement of review rights in respect of this decision is enclosed.

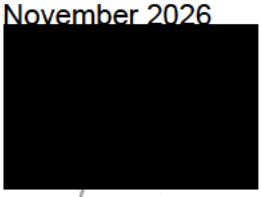
Yours sincerely,



**The Hon Susan Kenny AM KC**

Chairperson

9 November 2026



**Mr Jeff Pope APM**

Electoral Commissioner

9 November 2026



**Dr David Gruen AO**

Australian Statistician

9 November 2026

## Your review rights

Under s 141(5) of the Electoral Act, a person (including an organisation) affected by the Commission's decision who is dissatisfied with the decision may make an application to the Administrative Review Tribunal (the ART) for review of the decision.

**How is an application made to the ART for a review of a Commission decision?**

In accordance with s 34 of the *Administrative Review Tribunal Act 2024* (Cth), the application:

(a) may be made in writing or in any other manner specified for the application in the practice directions;

(b) include the information specified for the application in the practice directions; and

(c) be accompanied by any prescribed fee.

More information on how to apply to the ART can be found on the ART website: https://www.art.gov.au/applying-review.

Practice directions published by the ART are available on the ART's website: https://www.art.gov.au/help-and-resources/professionals-and-practitioners/practice-directions-guides-and-guidelines. The practice directions specify the information required to be included in an application, such as your details, details regarding the decision, and the reasons why you say the decision should be reviewed.

**Prescribed fee**

The ART has a standard application fee. In certain circumstances, an applicant may be entitled to pay a reduced fee.

If an applicant pays the standard application fee and the ART review is resolved in the applicant's favour, the ART will refund the difference between the standard application fee and the reduced fee. There is no refund if the applicant paid the reduced fee.

Further information about fees is available on the ART website: https://www.art.gov.au/help-and-resources/fees; https://www.art.gov.au/applying-review/other-decisions.

**Prescribed time**

You may apply to the ART for review of the Commission's decision during the period commencing on the day on which the Commission's decision was made and ending on the twenty-eighth day after this letter was given to you.

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

Further information about time limits is available on the ART website: https://www.art.gov.au/applying-review/other-decisions.

**Conduct of a review by the ART**

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

Further information about the review process can be found on the ART website: https://www.art.gov.au/applying-review/other-decisions.

Should you have any further queries regarding the Commission's decision, please contact the Commission Secretariat by emailing commission.secretariat@aec.gov.au.