



Manager  
Housing Unit  
Social Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

3 March 2017

Dear Manager

### **Submission in response to the Social Impact Investing Discussion Paper**

The Business Council of Co-operatives and Mutuals (BCCM) welcomes the opportunity to make a submission in response to the Australian Government's Social Impact Investing Discussion Paper.

Co-operatives are a tried and tested form of social enterprise and a model of social impact investment in Australia and globally. Therefore, we are pleased to see Hepburn Wind Park Co-operative included in the Discussion Paper. As the McClure Welfare Review report found, 'in developing intergenerational self-reliance, co-operatives help to reduce welfare dependency...provide jobs for local people, offer goods and services and use procurement practices that support local business.'<sup>1</sup>

The BCCM recognises the need for a range of social enterprise models, which will need different forms of social investment at different stages of development. However, our response focuses on the role co-operatives and mutuals can play in social enterprise and social impact investing.

The BCCM is confident that with the right enabling environment co-operatives can be an important part of a flourishing of social enterprise and the social impact investment market in 21<sup>st</sup> century Australia.

The remainder of the BCCM submission is structured in the following way:

1. About the BCCM
2. About co-operatives and mutuals
3. Comments on the Discussion Paper
4. Responses to select consultation questions
5. Recommendations
6. Appendix: Senate Inquiry Recommendations

The BCCM can provide further information or comment on any aspect of this submission.

Yours faithfully

Melina Morrison  
CEO

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## 1. About the BCCM

The BCCM is the peak body for Australian co-operatives, mutuals and member-owned businesses. The BCCM represents a diverse range of businesses operating in sectors including agriculture, finance and banking, insurance, motoring services, health services, aged care, disability employment, education, indigenous services, social housing and retail.

The BCCM advocates for recognition of the sector and for measures that create a level playing field between co-operatives and other businesses, including implementation of the recommendations of the Senate Economics References Committee report into Cooperative, mutual and member-owned firms.<sup>2</sup>

## 2. About Co-operatives and Mutual Enterprises

Co-operative and mutual enterprises (CMEs) are a significant contributor to the Australian economy: 8 in 10 Australians are a member of at least one CME and annual turnover of the top 100 CMEs (excluding member-owned superannuation funds) reached \$30.5 billion in FY2014/2015.<sup>3</sup>

Co-operatives must subscribe to seven globally agreed co-operative principles that ensure co-operatives balance financial and social returns.<sup>4</sup> In Australia, CMEs may operate under a state/territory based co-operative law (the Co-operatives National Law, except in Queensland) or under the Commonwealth Corporations Act. When operating under the Corporations Act, whether or not a CME is a co-operative will depend on whether its constitution includes the principle of democratic member ownership.

The distinguishing feature of co-operatives and mutual entities, compared with other corporate entities, is that they are owned by their members for collective social and economic benefit. Membership is tied to contributing to or making use of the co-operative; this ensures the co-operative is made up of people who share its common purpose. Co-operatives have a sticky money effect, ensuring that social value benefits local communities.<sup>5</sup>

## 3. Comments on the Discussion Paper

### 3.1 Co-operatives and mutuals can be conceptualised as both social enterprise *and* social impact investing

The BCCM stresses that co-operatives and mutuals are simultaneously a method of organising retail/community investment and a business structure for social enterprise.

Whilst the interest in and awareness of the important contribution to the socio-economic development of social impact investing and social enterprise is relatively new, co-operatives and other social business models have been around for centuries. Therefore, it is not true that there is 'no purpose built legal entity for social enterprises in Australia' as the Discussion Paper stated on page 31.<sup>6</sup>

Co-operatives began in earnest with the formation of the first successful consumer co-operative in Rochdale, England in 1844. The original Rochdale consumer co-operative was formed to provide affordable, high quality goods to workers, who otherwise had to purchase from unscrupulous company stores and retailers. Over the many years since, the

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<sup>2</sup>[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Cooperatives/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Cooperatives/Report)

<sup>3</sup> Business Council of Co-operatives and Mutuals, National Mutual Economy Report 2016, 17.

<sup>4</sup> <http://bccm.coop/wp/wp-content/uploads/2016/11/BCCM-NME-Report-2016.pdf>

<sup>5</sup> <http://ica.coop/en/whats-co-op/co-operative-identity-values-principles>

<sup>6</sup> Ernst and Young, Sticky Money: Recognising the total value created by Australian Co-operatives and Mutuals. [http://bccm.coop/wp/wp-content/uploads/2014/12/Sticky-Money-Report\\_EY-2014.pdf](http://bccm.coop/wp/wp-content/uploads/2014/12/Sticky-Money-Report_EY-2014.pdf)

<sup>6</sup> Hepburn Wind Park Co-operative, to take one example, is a distributing (for-profit) co-operative.

international co-operative movement has learnt, through practice, how to balance commercial and social outcomes sustainably.<sup>7</sup>

Co-operatives are recognised internationally for their social impact. During the UN International Year of Cooperatives in 2012 when Ban-Ki Moon said ‘Co-operatives are a reminder to the international community that it is possible to pursue both economic viability and social responsibility.’<sup>8</sup> The co-operative legal structure and the seven international co-operative principles have been developed precisely for this purpose.

Similarly, mutuals have a long history. The first Australian friendly society (a form of mutual), Australian Unity, is over 175 years old. It began by pooling funds for widows and orphans and providing primary healthcare for those who could not afford it.

‘In the second half of the nineteenth Century, Australians pioneered mutuals and friendly societies across the six colonies. Found in every community, these institutions were voluntary and self-regulating. By the eve of the First World War, around 400,000 friendly society members helped to fund benefits for over one million Australians. Today, Australia’s 13 million plus members of co-operative and mutually owned businesses are in our motorists mutuals, non-profit health funds, customer owned banks, agricultural-business giants, retail conglomerates, member-owned super funds and numerous local health and community services organisations.’<sup>9</sup>

The member-based method of raising capital used by co-operatives and mutuals is a form of investing that is guided by the principle of mutuality – that is, investment is tied to membership and membership tied to common purpose. Furthermore, investment returns are usually based on patronage.

#### *Case study: Hepburn Wind Park Co-operative*

Hepburn Wind Park Co-operative, an example of social enterprise in the Discussion Paper, also provides a concrete demonstration of how co-operatives simultaneously facilitate a form of retail/community investment while operating as a social enterprise. Hepburn Wind decided to use the co-operative model because it wanted to ensure its investors were deeply invested in the purpose of the business. In a co-operative, the ability to invest in a share offering is only open to members.<sup>10</sup> Members must meet minimum requirements of active contribution to the purpose of the organisation or use of its services. In the case of Hepburn Wind, members need to purchase electricity from the business or subscribe to its information services. This ensures investment is tied to social purpose.

Hepburn Wind also provides an important case study in the positive role government and external (non-member) social impact investment can play to facilitate community investment into a co-operative social enterprise. The Victorian Government provide two grants that allowed Hepburn Wind to commission a feasibility study, undertake important community engagement work and prepare the share offering. Alongside just under \$10 million from member-investors, a loan for \$3 million from a commercial bank was crucial for the success of the project.

At the same time, Hepburn Wind has experienced some of the common difficulties for co-operative or mutual social enterprises in the current regulatory and legislative environment. Hepburn Wind’s main difficulty in undertaking social impact investing as a co-operative was a lack of understanding or trust from markets about the model – while they eventually received a loan, the process was arduous. Furthermore, co-operatives face significant legislative and regulatory barriers in relation to, *inter alia*, capital raising, accounting, grant eligibility, education and provision of information and guidance from state agencies. These

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<sup>7</sup> Now, more than a billion people worldwide are a member of a co-operative.

<sup>8</sup> <https://social.un.org/coopsyear/index.html>

<sup>9</sup> See [http://bccm.coop/wp/wp-content/uploads/2014/09/WhitePaper\\_PSM\\_HR.pdf](http://bccm.coop/wp/wp-content/uploads/2014/09/WhitePaper_PSM_HR.pdf), 3.

<sup>10</sup> Co-operatives are still able to offer other securities to external investors including debentures and Co-operative Capital Units.

difficulties were outlined in the Senate Economics References Committee report into Cooperative, mutual and member-owned firms (our responses to individual consultation questions expands more on the findings in this report). Similarly, the McClure Review report recommended that the Australian Government work with the BCCM to implement 'an enabling regulatory, economic and social environment to support mutuals and co-operatives.'<sup>11</sup>

Hepburn Wind is proving the efficacy of the co-operative model of social impact investing and social enterprise.

Hepburn Wind have put their money where their mouth is, providing a portion of their surpluses through their community grant programs: 'Right from the start, we committed to ensuring that our whole community would stand to benefit from the wind farm, not just investors.'<sup>12</sup> While doing so, Hepburn Wind has demonstrated robust financial management to ensure it continues to provide community benefits long term.<sup>13</sup>

### 3.2 Scaling community investment

The BCCM agrees that there should be consideration of vehicles that allow larger investors to invest in social enterprise. However, the Discussion Paper did not adequately consider how community or retail based investment can also be scaled. This is a missing link that will connect latent community investment with social enterprise.

There are a number of different existing models that could be explored that would facilitate scaled investing that operates on principles of mutuality and community benefit. The Australian Government should investigate the following models and consider how it can support their implementation in Australia:

- Mutually-based revolving loan funds<sup>14</sup>
- Big Society Capital<sup>15</sup>;
- Australian co-operative crowd funding platforms (like the Microgenius platform in the United Kingdom);<sup>16</sup>

'In the UK, since 2009 almost 100,000 people have invested over £100m to support 350 community businesses.'<sup>17</sup>

The other way that co-operatives and mutuals provide social impact investment is through social impact bonds. Mutuals have already demonstrated an appetite to invest in social impact bonds.<sup>18</sup>

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<sup>11</sup> [https://www.dss.gov.au/sites/default/files/documents/02\\_2015/final\\_report\\_access\\_2\\_final\\_word.docx](https://www.dss.gov.au/sites/default/files/documents/02_2015/final_report_access_2_final_word.docx)

<sup>12</sup> <https://www.hepburnwind.com.au/community/>

<sup>13</sup> [https://www.hepburnwind.com.au/wp-content/uploads/2014/06/FY2015\\_Hepburn\\_Wind\\_Annual\\_Report.pdf](https://www.hepburnwind.com.au/wp-content/uploads/2014/06/FY2015_Hepburn_Wind_Annual_Report.pdf)

<sup>14</sup> 'Over the last 40 years we've supported hundreds of businesses, from small community-led enterprises to large award-winning organisations. All of our funds are democratically owned and controlled by our members. We lend to those that practice the principles of co-operation, social ownership and sustainable development. Our rates are competitive and we don't require personal guarantees.' <https://coopfinance.coop/>

<sup>15</sup> [https://www.bigsocietycapital.com/search?search\\_api\\_views\\_fulltext=co-op](https://www.bigsocietycapital.com/search?search_api_views_fulltext=co-op)

<sup>16</sup> BCCM submission to the Victorian Government to build a co-operative crowdfunding platform, [http://bccm.coop/wp/wp-content/uploads/2014/05/Submission\\_Vic-gov\\_communityenergy.pdf](http://bccm.coop/wp/wp-content/uploads/2014/05/Submission_Vic-gov_communityenergy.pdf), 20.

<sup>17</sup> *Ibid.*

<sup>18</sup> <https://www.mynrma.com.au/about/investing-for-the-future.htm>

### 3.3 Other

On page 32, the Discussion Paper states that a co-operative can be registered in any state or territory. This is correct, however, a co-operative can also be formed as a company under the Corporations Act with a co-operative constitution.

## 4. Responses to select consultation questions

### Question 1

The growth of the social impact investing market in Australia would be enhanced by engaging with all social impact investing markets and models. There is a market of co-operative and mutual social impact investing that currently has great potential but faces regulatory and legislative barriers.

As outlined above, co-operative and mutuals are both a form of social enterprise and social impact investing (retail/community investment). They combine investors, service providers and intermediaries in one entity.

The main barriers facing the growth of co-operative and mutual forms of social enterprise and social impact investing were outlined in the Senate Economics References Committee report into Cooperative, mutual and member-owned firms.

The relevant recommendations are:

- Recommendation 2 (recognition and promotion by government of co-operatives as a model for community-based service delivery)
- Recommendation 11 (ensuring grant eligibility for co-operatives)
- Recommendation 14 (relating to accounting standards for co-operative and mutual capital);
- Recommendation 15 (formalisation of some of innovative market-based approaches to raising capital for small and medium-sized co-operative and mutual enterprises, in the form of advice and information, as they become available) and
- Recommendation 17 (improvement of capital raising opportunities for co-operatives and mutuals).<sup>19</sup>

The full recommendations are provided in Appendix A.

### Question 2

There is already a diversity of legal forms appropriate for social enterprise and social impact investing including the co-operative form. In relation to co-operatives and mutuals, the form is well developed, but as outlined in response to Question 1, there are policy, regulatory and legislative barriers to its effective use for social enterprise and social impact investing. Despite these barriers there is growth in the use of co-operatives for renewable energy projects, freelancers and entrepreneurs, housing, disability housing and primary healthcare.

### Question 3

As outlined above, the implementation of the Senate Economics References Committee report into Cooperative, mutual and member-owned firms recommendations is an important step in facilitating social impact investing markets and social enterprise.

### Question 4

The Australian Government should recognise the diversity of social impact investing and social enterprise models including the co-operative model. The Australian Government's role

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<sup>19</sup> Senate Economics References Committee report into Cooperative, mutual and member-owned firms, xii-xiii.

should then primarily be to enable markets and new entrants by reducing barriers and red tape.

### Question 5

The Australian Government should work with state and territory governments to ensure there is consistent regulation of co-operatives and mutuals. Furthermore, all levels of government should work together to continually improve the information and guidance available to co-operatives and mutuals.<sup>20</sup>

### Question 6

Co-operatives and mutuals are generally not reliant on grant funding; they use a community investment model where surpluses are reinvested into the purpose of the enterprise. They are able to meet social needs in an economically sustainable fashion. There are Australian co-operatives and mutuals operating in the following service areas that were raised in the Discussion Paper:

- Child Care: East Melbourne Child Care Co-operative;<sup>21</sup>
- Employment and Training: Nundah Co-operative;<sup>22</sup>
- Affordable Housing: Common Equity Housing Limited;<sup>23</sup>
- Care services: Co-operative Home Care;<sup>24</sup>
- Financial Exclusion: Bank Australia;<sup>25</sup>
- Health Services: National Healthcare Co-operative;<sup>26</sup> and
- NDIS: Supporting Independent Living Co-operative.<sup>27</sup>

### Question 7

The BCCM has outlined how co-operatives and mutuals can play a greater role in the delivery of social housing, indigenous services and community services in submissions to the Productivity Commission Inquiry into Human Services.<sup>28</sup>

### Question 8

The BCCM believes there are opportunities for collaboration between the Australian Government and the states and territories in social housing. All levels of government could collaborate in the development of a bond aggregator, as discussed in the Council of Federal Financial Relations Affordable Housing Working Group Issues Paper released late last year.<sup>29</sup> State governments could transfer title of some social housing stock to facilitate the growth of the co-operative housing sector alongside a bond aggregator.

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<sup>20</sup> Recommendation 6, Senate Economics References Committee report into Cooperative, mutual and member-owned firms, xi.

<sup>21</sup> <https://emcc.org.au/>

<sup>22</sup> <http://www.ncec.com.au/>

<sup>23</sup> <http://www.cehl.com.au/>

<sup>24</sup> <http://www.lifecoop.com.au/>

<sup>25</sup> <https://bankaust.com.au/responsible-banking/>

<sup>26</sup> <https://www.nhc.coop/>

<sup>27</sup> <http://silc.coop/>

<sup>28</sup> See generally [http://www.pc.gov.au/\\_data/assets/pdf\\_file/0008/204938/sub216-human-services-identifying-reform.pdf](http://www.pc.gov.au/_data/assets/pdf_file/0008/204938/sub216-human-services-identifying-reform.pdf)

<sup>29</sup> [http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20Reviews/Consultations/2016/CFFR%20Affordable%20Housing%20Working%20Group/Key%20Documents/PDF/Final\\_report.ashx](http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20Reviews/Consultations/2016/CFFR%20Affordable%20Housing%20Working%20Group/Key%20Documents/PDF/Final_report.ashx), 3.



## Question 11

The BCCM suggests that ownership and control are important principles for effective social impact investing and social enterprise. They could be included as part of the principle of 'Fair Sharing of Risk and Return' that is proposed in the Discussion Paper.

The ownership and capital structure of co-operatives ensure that social value is captured in local communities, but also ensures local communities must "buy in" to the success of the enterprise.<sup>30</sup>

We note that non-distributing (not-for-profit) co-operatives have a legislative asset lock that ensures social value is retained locally.

## Question 28

As the Senate Economics References Committee report into Cooperative, mutual and member-owned firms found, amendments to the Corporations Act 2001 (Cth) can make clearer the duty of directors in a mutual enterprise.<sup>31</sup> Directors of mutual will then be able to discharge their duty in accordance with the social mission of the mutual.

## Question 29

The co-operative and mutual sector, through the BCCM, is working to create an enabling environment for co-operative social enterprise.

The BCCM has developed Get Mutual as a platform for free resources about starting up and running co-operatives and for referrals to professional advisors.<sup>32</sup> The resources already developed include a Community Investment Handbook, which explains how to undertake social impact investing using all the securities available to an Australian co-operative.<sup>33</sup> The BCCM is now developing a constitution builder and disclosure guide for co-operatives, funded by the Australian Government's Farm Co-operatives and Collaboration Pilot Program.<sup>34</sup> The BCCM is also exploring technological solutions for registration and compliance that will reduce the time and cost involved in starting up and running a co-operative for communities and for government (registries).

While the industry will lead these developments, support from all levels of government will be crucial, particularly in relation to the co-ordinated implementation of technological solutions in state and territory co-operative registries.

## 5. Recommendations

1. The BCCM recommends that the Australian Government promote co-operatives as an appropriate legal entity for social enterprise and sustainable and effective social impact investing in line with recommendations 2 and 3 of the Senate Economics References Committee report into Cooperative, mutual and member-owned firms.
2. The BCCM recommends that the Australian Government reduce barriers to the use of co-operatives, particularly barriers pertaining to capital raising, for social enterprise and social impact investing by implementing recommendations 11, 14, 15 and 17 of the Senate

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<sup>30</sup> Ernst and Young, Sticky Money: Recognising the total value created by Australian Co-operatives and Mutuals. [http://bccm.coop/wp/wp-content/uploads/2014/12/Sticky-Money-Report\\_EY-2014.pdf](http://bccm.coop/wp/wp-content/uploads/2014/12/Sticky-Money-Report_EY-2014.pdf)

<sup>31</sup> Recommendations 4 and 5, Senate Economics References Committee report into Cooperative, mutual and member-owned firms, xi.

<sup>32</sup> <http://www.getmutual.coop/>

<sup>33</sup> [http://www.getmutual.coop/wp-content/uploads/2016/09/CS-Manual\\_FINAL.pdf](http://www.getmutual.coop/wp-content/uploads/2016/09/CS-Manual_FINAL.pdf)

<sup>34</sup> <https://farmingtogether.com.au/>

Economics References Committee report into Cooperative, mutual and member-owned firms.

3. The BCCM recommends that the Australian Government investigate the formation of vehicles that facilitate scaled social impact investing that operates on principles of mutuality and community benefit.

4. The BCCM recommends that the Australian Government work with the co-operative and mutual sector and state and territory governments to develop resources and technologies that will make starting a co-operative social enterprise easier and more affordable.



## **Appendix: Recommendations of the Senate Economics References Committee report into Cooperative, mutual and member-owned firms, March 2016**

(Each recommendation listed includes the relevant section number from the Inquiry report<sup>35</sup>)

### **Recommendation 1**

2.32 The committee recommends that the Commonwealth Government ensures that a national collection of statistics and data is undertaken to provide an accurate picture of the scale and extent of the co-operative and mutual sector.

### **Recommendation 2**

3.28 The committee recommends that co-operative and mutuals sector be better represented in government policy discussions, and is actively promoted as a possible option for service delivery particularly where community based initiatives are being considered.

### **Recommendation 3**

3.29 The committee recommends the Commonwealth Government work with states and territories to develop a program of supports to encourage the establishment of new co-operatives and mutual enterprises.

### **Recommendation 4**

3.49 The committee recommends that a mutual enterprise is explicitly defined in the Corporations Act 2001, and its associated regulations.

### **Recommendation 5**

3.51 The committee recommends that the role of directors in mutual enterprises is defined in the Corporations Regulations to align with the proposed definition of a mutual enterprise in the Corporations Act.

### **Recommendation 6**

3.75 The committee recommends the Commonwealth Government work with states and territories to ensure the continual improvement to advice, guidance and information provided at all stages in the establishment, governance and regulation of co-operatives.

### **Recommendation 7**

3.80 The committee recommends that the Commonwealth Government to work with all relevant stakeholders to undertake a program of education and training to inform them about the role of co-operatives and mutuals.

### **Recommendation 8**

3.81 The committee recommends that the Commonwealth Government examine ways in which it can improve the recognition and understanding of the co-operative and mutual sector in the national secondary school curriculum and that tertiary institutions consider the

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<sup>35</sup>[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Cooperatives/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Cooperatives/Report)

inclusion of co-operative and mutuals in accounting, business, commerce, economics and law degrees.

### **Recommendation 9**

3.82 The Committee recommends that professional accreditation bodies, such as the Law Society and Institute of Chartered Accountants, require a demonstrated knowledge of the co-operatives and mutual structure before it will licence its members to practice accounting or law.

### **Recommendation 10**

3.92 The committee recommends that the Commonwealth Government amend the Indigenous Advancement Strategy to allow registered co-operatives the same access to allow levels of grant funding as other entities.

### **Recommendation 11**

3.93 The committee recommends that the Commonwealth Government review, and where necessary amend the eligibility criteria for grants and funds across all of government grants and program guidelines to ensure that co-operatives and mutual enterprises are not excluded on the basis of their business structure.

### **Recommendation 12**

4.17 The committee recommends that the co-operative and mutual sector be considered when the government is preparing a Regulatory Impact Statement that accompanies new regulatory policies.

### **Recommendation 13**

4.18 The committee recommends that the Commonwealth Government liaise with its state and territory counterparts to ensure that the regulatory burden for small and medium sized co-operative and mutual enterprise aligns with the needs of these organisations and ensures they are not disadvantaged relative to companies of a similar size.

### **Recommendation 14**

4.26 The committee recommends that the Commonwealth Government closely monitor the progress of the International Accounting Standards Board in developing solutions to bring co-operative shares under the definition of capital under AASB 132, and, where possible, facilitate equivalent amendments as expeditiously as possible.

### **Recommendation 15**

4.42 The committee recommends that Commonwealth and State Governments support the formalisation of some of innovative market-based approaches to raising capital for small and medium sized co-operative and mutual enterprises, in the form of advice and information, as they become available.

### **Recommendation 16**

4.45 The committee recommends that APRA set a target date for the outcome of discussions with the co-operative and mutuals sector on issues of capital raising and bring those discussions to a timely conclusion.

#### **Recommendation 17**

4.49 The committee recommends that the Commonwealth Government examine proposals to amend the Corporations Act 2001 to provide co-operative and mutual enterprises with a mechanism to enable them access to a broader range of capital raising and investment opportunities.