



28 April 2024

# Design and implementation of a graduated risk-proportionate regulatory model

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Submission to the NDIS Provider and Worker Registration Taskforce

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## Introduction

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The Business Council of Co-operatives and Mutuals (BCCM) welcomes the opportunity to make this submission to the NDIS Provider and Worker Registration Taskforce.

The BCCM is the national peak body representing the co-operative and mutual movement across all industries.

The BCCM is currently delivering Australia's first co-operative and mutual enterprise support program in social care, the \$7 million [Care Together Program](#), on behalf of the Australian Government. This program seeks to:

- Support the development of innovative co-operative models of social care delivery, particularly in regional, rural and remote settings
- Reduce the barriers to formation and growth of co-operative social care

It has been estimated that there were 16,000 registered providers and 154,000 unregistered providers operating in the NDIS market during 2023. The focus of our submission is on how the NDIS, in moving to a regulatory framework with greater visibility and proportionate regulation over these providers, can continue to encourage a diverse range of provider models that work to maximise choice and control for Participants and ensure there is the necessary workforce available to deliver supports.

Co-operatives allow Participants, families, existing small providers or independent care workers to collaborate to meet regulatory requirements, innovate and share costs without loss of agency. Independent workers can form their own co-operative platforms. Participants can pool their budgets through a co-op. Small providers can share a co-op back office to gain efficiencies.

Co-operatives have strong potential to deliver cross-sectoral services in thin markets. Regulation of the NDIS should be designed with a view to enabling cross-sectoral service delivery to grow.

### **We recommend that the Taskforce:**

- **Consider how the new provider and worker registration and regulatory frameworks can promote a diversity of business models within the NDIS.**
- **Ensure that any registration governance requirements are not incompatible with co-operative governance models.**
- **Note the Moruya Independent Support Workers Co-operative project in the Care Together Program as a source of information to inform registration and regulatory design across care sectors including the NDIS.**

The BCCM would be pleased to provide further information on any matters raised in this submission.

## Background: what are co-operatives and mutuals?

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Co-operatives and mutuals are organisations that are owned and democratically controlled by their members. The members may be consumers, workers, small or medium enterprises, a community of interest or a combination of these.

The purpose of co-operatives and mutuals is to deliver economic, social and cultural benefits to their members and communities, rather than to maximise profits for shareholders.

Co-operatives operate under seven internationally agreed principles that are enshrined in Australia's harmonised state and territory co-operatives legislation, Co-operatives National Law. These principles include Member Democratic Control, Member Economic Participation and Concern for Community.

Due to their distinct models of ownership, governance and principles, co-operatives and mutuals are recognised by international organisations such as the UN (see [UN resolution calls for a second International Year of Cooperatives in 2025](#)) and the ILO (see [Recommendation 193](#)) as 'people-centred' organisations with an important role to play in community controlled, sustainable development.

There are more than 1,840 co-operatives and mutuals operating across all sectors of the economy in Australia, including health, social care, housing, agriculture, banking, insurance, retail and wholesale. The top 100 co-ops and mutuals have a combined turnover of \$37.7bn ([2023 National Mutual Economy Report](#)).

## Co-operatives in social care

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Co-operatives are a recognised model in the delivery of social care globally with workforce, productivity and service quality benefits. Co-operative models globally are responding to some of the pressing challenges of care delivery being experienced in Australia:

- In Italy, 85% of social care is delivered co-operatively in some regions of the country. Co-operatives have [proven to be resilient in crises](#), employing a greater proportion of Italians in the aftermath of the Global Financial Crisis as other businesses failed.
- [Equal Care Co-operative](#) is a UK example of a multi-stakeholder social care co-operative where the members are the workers and consumers of care. It provides an innovative co-operative platform model for co-ordinating care. UK research has found that [employee-owned businesses are 8-12% more productive than other businesses](#).
- [Elevate Co-operative](#) is a U.S. example of a secondary co-operative where the members are small and large home care co-operatives. The purpose of the Elevate Co-operative is to support the co-op members to be sustainable through the provision of back office and value-added services. Many of the members of Elevate are smaller worker owned co-operatives located in remote areas of the U.S.

In Australia, the BCCM estimates there are 80 co-operatives and mutuals operating in disability care and services inside or outside the NDIS. The following are some examples showing the breadth of co-operative models already active in disability services in Australia:

- [The Co-operative Life](#) is a worker-owned co-operative currently operating in Sydney and the New England region of NSW. The Co-operative Life primarily provides support services to people with a disability along with a smaller client base of older people.
- [Rumbalara Aboriginal Co-operative](#) is an Aboriginal community-controlled provider of services to its members in the Shepparton region. Its services include primary health, housing, disability care and aged care. It is a registered NDIS provider.
- [Kudos Services](#) is a worker-owned mutual company providing a range of early childhood services through the NDIS in South Australia.
- [Nundah Cooperative Community Enterprises](#) is an award-winning worker and community-owned co-operative that has been providing sustainable long term quality jobs for people with a disability who, prior to joining the Nundah Co-op, had been long term unemployed. The Nundah Co-op business model uses a blended workforce model where education and training, learning from others is intrinsic to its success, which extends beyond 25 years.
- [Supporting Independent Living Co-operative](#) is a secondary co-operative of 14 family-governed co-operatives that operate SIL housing. SILC supports its member co-ops with regulatory compliance, back office, training and networking services. The secondary co-op model facilitates scale benefits without loss of family control.

Australian Government support for the Care Together Program is a positive step for the growth of co-operative social care including in the NDIS. Support for the Program is founded in government recognition that co-operative models can play a role in driving the innovation that is needed to address many of the social care sector policy and regulatory challenges, including providing access to services in regions where other models have not succeeded. Importantly they ensure that the most important stakeholders, the people receiving care, and the people giving care, are prioritised through a structure that places their needs at the centre of the business model.

### **Co-operative innovation case study: Moruya Independent Support Workers Co-op project**

The Care Together Program is in the early stages of working with up to 45 independent support workers in Moruya on the development of a worker-owned co-operative.

Many of the workers previously were employees with the local council and, after council services were discontinued, decided to continue working as sole traders.

30 workers have maintained an informal Sole Traders Network which facilitates information sharing and referrals amongst members. They identify the basic challenge and rationale for working together as follows:

*“there are a lot of [sole traders] in the NDIS and many don't really understand what it means to be a NDIS provider offering choice and control to participants. In short, they don't really know what it takes to meet their obligations as a provider. For instance, we are aware that some don't hold the necessary insurances. This was one of the reasons we started the Networking group: to assist with education and support.”*

Specific challenges the group has identified from a worker perspective include regulatory and administrative burden and duplication (including uncertainty about increased future requirements), worker burnout, worker insecurity, difficulty accessing training and lost opportunities for business growth. The group also sees flow-on challenges for their clients, who may receive reduced quality, reliability or choice in care.

A co-operative is seen by workers as a vehicle to build on existing informal collaboration in a structured way. A co-operative could deliver increased capacity to co-ordinate training, regulatory support and compliance across care sectors, and promotion of best practice among members. Collaboration is seen as likely to support better worker conditions and therefore better quality care.

The Care Together Program is working on a number of projects that demonstrate this potential for innovative co-operative solutions in the NDIS that address workforce and quality challenges, including:

- Developing an independent worker (i.e. sole trader provider) co-operative model to facilitate training, regulatory compliance and best practice typically available only to larger entities, without loss of independence of individual workers.
- Developing consumer-owned co-operative models for SIL residents to pool their purchasing power in innovative ways.

- Developing a secondary co-op model to bring together small co-op providers and potentially other small providers to access scale efficiencies without loss of local control.

## Comments on a new risk-based regulatory approach for the NDIS

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The BCCM is supportive of the intent of recommendation 17 that the NDIS move to risk-based and proportionate regulation and registration, provided that any new requirements:

- Are proportional with respect to different business types operating in the NDIS, including co-operatives
- Are designed to encourage a diversity of business types to deliver services at all levels of the NDIS
- Are designed without losing sight of the goal of empowerment of Participants as a fundamental principle for delivery of quality services.

We note that size, or type of service, are not the only characteristics that should be considered for regulatory purposes. An example is the bespoke regulation being considered for platform provision models. Like platforms, co-operatives also have distinct features, independent of size or type of service.

**The most fundamental point that regulatory design must recognise with respect to co-operatives is that they are governed democratically by members, including a majority of the board of directors being members.** As membership is tied to active contribution to the co-operative as a relevant stakeholder, this governance model is what allows co-ops to facilitate choice and control for stakeholders. Any changes to NDIS regulation, such as new governance requirements for providers, must respect this foundational element of co-operatives. This has been an issue in the ongoing reform of aged care regulation that should not be repeated in the NDIS.<sup>1</sup>

Some other important features to note about social care co-operatives for regulatory policy purposes are that:

- **Co-ops are often involved in multi-service models across regulatory silos.** Co-ops often deliver services across NDIS, non-NDIS disability services, aged care, primary health and housing.
- **Co-ops often operate in so called 'thin' markets.** Co-operatives play an important role in regional, rural and remote areas. Their purpose is service, rather than profit maximisation, and this means they are willing and able to operate in contexts that may not be sufficiently profitable for other providers.
- **Co-ops have unique regulatory and governance obligations.** Co-operatives registered under Co-operatives National Law with their local state or territory Registrar of Co-operatives must comply with the governance and regulatory requirements of that legislation alongside any industry-specific regulation (e.g. NDIS, aged care).

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<sup>1</sup> Our submission in response to the Aged Care Act Exposure Draft outlines the issues in detail: [BCCM-Submission-in-response-to-Aged-Care-Bill-2023-Exposure-Draft.pdf](#)

- **Co-ops federate.** Collaboration of co-ops and even other providers through consortia, federations or networks can boost efficiency and allow smaller providers with local connections to remain viable in an environment with higher regulatory costs.

## Recommendations

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### We recommend that the Taskforce:

- **Consider how the new provider and worker registration and regulatory frameworks can promote a diversity of business models within the NDIS.**
- **Ensure that any registration governance requirements are not incompatible with co-operative governance models.**
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## About the BCCM

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The BCCM is the national industry peak body for co-operatives and mutuals, working with governments, regulators and policymakers to ensure the Australian economic landscape is fully able to benefit from a competitive co-op and mutual movement.

Through its member co-ops and mutuals, the BCCM represents 11 million individuals and 160,000 businesses.

The BCCM has supported new co-operatives and mutuals to form in a range of sectors and is a member of the International Co-operative Alliance (ICA) with access to world-wide networks.

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