



BUSINESS COUNCIL
OF CO-OPERATIVES AND MUTUALS

Co-operatives National Law Bill 2020

Submission to the Legal Affairs and Community Safety
Committee

Additional submission in respect of the Co-operatives National Law Bill 2020

The Business Council of Co-operatives and Mutuals (BCCM) notes the importance and value of the Legal Affairs and Community Safety Committee's processes and consideration of the **Co-operatives National Law Bill, 2020**.

The BCCM is the national peak body for co-operatives in Australia. It is a member driven and funded organisation representing co-operatives in all industries and regions.

The BCCM supports the introduction of the Co-operatives National Law Bill 2020.

The BCCM notes the role of the Committee to consider and report on the both the policy underlying new legislation and whether new legislation accords with fundamental legislative principles.

Policy

Co-operatives are important vehicles for collaboration by producers, consumers, employees and communities seeking to increase buying power, reduce business costs and secure local jobs, services and infrastructure. The Co-operatives National Law and its underlying agreement, the Australian Uniform Co-operative Laws Agreement (AUCLA) recognises the need for co-operative enterprises to be able to compete in national markets.

Consultation between all jurisdictions to achieve uniformity of regulation for co-operatives commenced in 2007. The underlying policy imperative was to preserve the fundamental nature of a co-operative whilst addressing the competitive disadvantage of co-operatives compared with companies registered under the *Corporations Act 2000*.

Consultation on the draft template legislation and the AUCLA included Queensland Government officials. Notably, the text of the *Cooperatives Act 1997 (Qld)* was the starting point for drafting and the objects listed in s4 of the Queensland Act are replicated in s3 of the Co-operatives National Law.

Notwithstanding the withdrawal of Queensland from the AUCLA in 2015, Queensland officials have continued to participate in interjurisdictional working groups on both policy and administrative matters under the Co-operatives National Law.

The Co-operatives National Law seeks to modernise the legislation for co-operatives by:

- **Facilitating national operations for co-operative enterprises by providing mutual recognition:** Under previous laws, co-operatives had to register as 'foreign co-operatives' in other jurisdictions if they wanted to carry on business outside their home jurisdiction. This created additional cost and regulatory compliance. Queensland co-operatives are not able to carry on business in other jurisdictions that have adopted the Co-operatives National Law unless they previously were registered as foreign co-

operatives. There is no process to allow new foreign co-operative registration for new Queensland co-operatives.

- **Updating directors' duties:** Adopting the same language used in the *Corporations Act 2000* enables legal advisers to provide better advice to directors of co-operatives in respect of their duties. In recognition of the unique nature of co-operatives, directors are clearly authorised to take the Co-operative Principles into consideration when making business judgements.
- **Reducing annual compliance costs for small co-operatives:** The high cost of audit services constitutes a heavy burden for smaller co-operatives and places small co-operatives at a competitive disadvantage compared with small proprietary companies. Small co-operatives under the Co-operatives National Law are no longer required to lodge audited financial statements with the Registrar, however, members are protected through their entitlement to receive financial reports from their co-operative along with a statutory right to require an audit or review in any particular instance.
- **Improving access to capital for growth:** New flexible financial instruments, Co-operative Capital Units (CCUs) will be available to Queensland co-operatives. CCUs have been available to co-operatives in New South Wales since 1992 and there is growing interest in how these instruments can be used to fund growth in a co-operative's business.
- **Facilitating members meetings:** Under the Co-operatives National Law processes for members' meetings and voting are able to be facilitated by technology so that geographically diverse memberships can more easily participate in the democratic governance of their co-operative.

As well as benefits for co-operatives registered in Queensland, it is contended that the administration of the legislation for co-operatives will be facilitated through the ongoing collaboration between State and Territory Registrars on both administrative and policy matters.

Legislative principles

The BCCM notes that the Committee must ensure that in making its recommendations on legislation that the sovereignty of the Queensland Parliament is not compromised by adopting template legislation.

The AUCLA contains processes to ensure the the orderly consideration of amendments to the Co-operatives National Law and the Co-operatives National Law Bill, 2020 provides a process to ensure proper consideration of subordinate legislation. Subordinate legislation required at State level to deal with matters pertinent to local administration is a matter for Queensland.

Any jurisdiction may decide to withdraw from the AUCLA at any time.

It is further noted that the Statement of Compatibility provides assurance that the Co-operatives National Law Bill 2020 meets the requirements under the *Human Rights Act 2019*.

Summary

- The BCCM supports the adoption of the Co-operatives National Law Bill 2020 as it establishes a robust and modern regulatory environment that meets the policy

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objectives already evident under existing law and assures the continued operation of co-operatives in accordance with co-operative principles in the context of a national market.

- The Co-operatives National Law Bill 2020 is an appropriate exercise of sovereign powers of the Queensland Parliament.

The BCCM would be pleased to answer any further questions the Legal Affairs and Community Safety Committee may have about the matters raised in our submission.

Yours faithfully

A handwritten signature in blue ink that reads 'Melina Morrison'.

Melina Morrison
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Contact

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