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Enabling Co-operative Companies in Australia

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This article summarises a recently completed doctoral thesis that addressed the research question: How can Australia's regulatory environment foster and develop co-operatives? The thesis based its analysis on three qualitative research projects to develop a deeper understanding of the regulatory challenges and opportunities faced by co-operatives. The first project analysed stakeholder submissions to the 2016 Senate Inquiry into Co-operatives, Mutuals and Member-owned Firms (Parliament of Australia Senate Standing Committees on Economics, 2016). The second adopted a path dependence framework to examine the development trajectory of Australian co-operatives. The third compared organisational purpose, ownership, and stakeholder relationships in co-operatives and companies, examining their interaction with the United Nations (UN) Sustainable Development Goals (SDGs) and the Planetary Boundary Framework (PBF). The research advocates applying Section 51(xx) of the Australian Constitution to co-operatives, recommending States and Territories transfer their Corporations Power to the Commonwealth, consistent with the precedent set by the Corporations Act 2001 (Cth). Establishing a single federal regulator would improve professional and public understanding of co-operatives and their contribution to the national economy. Furthermore, a federally regulated co-operative company structure, prioritising social and environmental outcomes alongside economic objectives, could enable more sustainable business practices by embedding purpose and co-operative principles in the company structure.

Introduction

Co-operatives are among the world's oldest and most enduring enterprises (Rhodes, 2012). Modern co-operatives have been described as the "children of necessity", formed in response to the social disruption caused by industrialisation (Henrÿ, 2018, p. 9), with their historical narrative highlighting social and economic contributions spanning centuries (Birchall, 2013; Lewis, 2006; Patmore & Balnave, 2018b; Rhodes, 2012). In 2023, the UN passed a resolution encouraging all governments to review and strengthen their legal and regulatory frameworks, a commitment underscored by the designation of 2025 as the International Year of Co-operatives. Strengthening co-operative laws and regulations not only reflects this renewed international recognition but also enables governments to better recognise and support co-operatives' role in advancing economic and social development through inclusive participation.

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Despite co-operation conferring a survival advantage among organisations, communities, and individuals (Greene, 2013), the growth of the co-operative sector in Australia has been notably modest since Australia's first co-operative, the Brisbane Co-operative, was registered in 1859 (Patmore & Balnave, 2018a). Although 80% of Australians are a member of a co-operatively or mutually owned enterprise, only 16% are aware of their membership (Denniss & Baker, 2012). As co-operatives are regarded as the world's oldest form of mutual (Mazzarol & Reboud, 2020). providing joint-ownership and democratic control to those with shared cultural, economic, and social needs (International Co-operative Alliance, 2018), the modest growth is puzzling. A renewed interest in co-operatives by people wishing to work co-operatively, not competitively (Barin Cruz et al., 2017; Bretos et al., 2020; Jensen et al., 2015), is weaker in Australia where the low adoption rates are linked to regulatory challenges (Apps, 2016; Hall, 2020), attitudes that hinder growth (Grimstad et al., 2021) and a widespread lack of understanding and recognition of co-operatives as a viable business type (Patmore et al., 2021). The limited public profile of co-operatives restricts policy support, public awareness, and professional engagement with co-operatives as a legitimate and valuable component of the Australian economy. This challenge is further exacerbated by the complexity and diversity of co-operative forms.

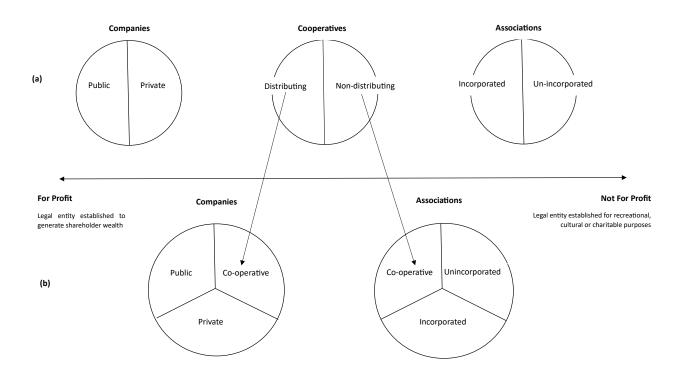
This doctoral study was motivated by the limited success of Australian co-operatives to gain traction with governments, regulators, and the broader public. Three qualitative research projects were undertaken, with two journal articles and a book chapter published during the course of the study (Bennison, 2024; Bennison, Chapple & Sadiq, 2024; Bennison, Williamson & Chapple, 2024). Readers of this journal may be interested in this research for two reasons. First, it examined how England influenced the regulatory environment in Australia and shaped the development trajectory of its co-operatives. Second, it considered the role of a co-operative company given the future challenges that changing climate patterns present to human habitats and food production systems. The following pages describe the three research projects undertaken, present the findings, offer suggestions for future research and conclude with a summary.

Project One: Senate Inquiry into Co-operatives, Mutuals, and Member-owned Firms

Thematic analysis of the written submissions to the 2016 Senate Inquiry into Co-operatives, Mutuals and Member-owned Firms (Parliament of Australia Senate Standing Committees on Economics, 2016) revealed that stakeholders perceived Australia's regulatory framework advantaged companies over co-operatives, potentially impeding the latter's growth and reinforcing corporate primacy. Co-operatives were identified as poorly-recognised and understood by the public, markets, and regulators, and disadvantaged by tax rules, accounting standards, access to capital, and administrative processes. Government officials and professional advisors were perceived as lacking the necessary knowledge and resources to effectively regulate co-operatives with higher costs and longer processing times incurred for co-operative services than for companies. Finally, inconsistencies between State and Federal legislation were exacerbated by a limited number of professionals and business advisors with knowledge of co-operatives.

Analysis of the Senate submissions revealed a paradox: while the Inquiry highlighted that co-operatives are disadvantaged by the regulatory environment, several substantial co-operatives were operating successfully under a company structure. These findings challenge conventional approaches to incorporated business organisation and question entrenched ideologies about co-operatives. If Australia's three commonly adopted incorporated entities of companies, co-operatives, and associations were reconceptualised as illustrated in Figure 1(part b), in contrast to their current form shown in Figure 1(part a), many of the barriers identified in the 2016 Senate Inquiry could be mitigated.

Figure 1: Current regulatory framework (a), and a speculative regulatory framework (b) for three Australian incorporated organisations; companies, co-operatives, and associations (Bennison, 2025, p. 207).



Project Two: A Path Dependence Analysis of Co-operative Development Trajectories

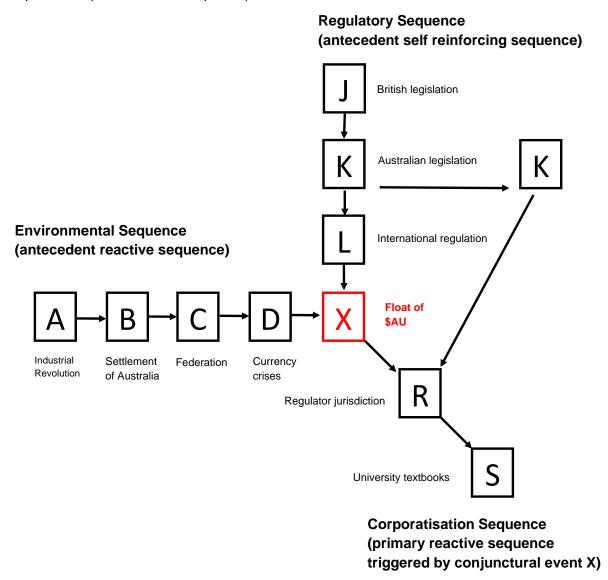
The second project employed path dependence theory to analyse shifts in societal power within regulatory, political, and social environments (Mahoney, 2000; Mahoney & Thelen, 2010). By examining how historical events shaped institutional arrangements and power structures, the research identified events that may not have been apparent through other theoretical lenses. Consistent with qualitative inquiry, this study was influenced by the researcher's positionality, which includes her professional experience in association management, an undergraduate degree in agriculture, and an interpretive approach to construct meaning from the data.

A key feature of path dependence theory is its emphasis on the irreversible influence that seemingly inconsequential events can have on future events (Arrow, 2000; Liebowitz & Margolis, 1995). This framework identified institutional developments over time, aligning with the three phases of co-operative development. First, the emergence of need and social dislocation (Fairbairn, 1994). Second, members uniting within an organised structure. Third, members influencing legislative and judicial processes that shape public, private, or government policy (Ortmann & King, 2007). The convergence of these events can create an environment conducive to co-operative development, underscoring the importance of historical sequencing and affirming the relevance of path dependence theory. The sequences identified as influencing the development trajectory of Australian co-operatives are depicted in Figure 2.

The 1788 settlement of Australia as a British colony marked a critical juncture in the path development sequence identified in this study. While possible, the event was neither readily predictable nor inevitable, rendering it both stochastic and contingent. For context, in 1770, Lieutenant James Cook became the eighth European explorer to record Australian landfall — 164 years after William Janszoon's first authenticated sighting of the continent. Although Cook's claim might appear random or opportunistic, it becomes more intelligible when viewed within the broader context of the Industrial Revolution. The rise of mechanised, steam-powered factories displaced cottage industries and their workers, leading to widespread social dislocation. This

disruption contributed to increased crime and severe prison overcrowding in Britain, reinforcing political and public support for the establishment of offshore penal settlements (Grinberg, 2022). Cook's claim to Australia established a causal link that triggered a sequence of institutional developments characterised by deterministic properties. The events following Australia's settlement as a British colony created a shared legal history that proved arguably predictable, and self-reinforcing.

Figure 2: Three sequences that influenced the development trajectory of Australian co-operatives (Bennison, 2024, p. 205).



Key:	
A:	Industrial Revolution led to increased crime and overcrowded jails
B:	Australia settled as a British penal colony
C:	Federation facilitated self-Government and the development of Australian Law
D:	Currency crises occurred, linked to boom-bust cycles in minerals and agriculture
J:	British Law developed recognising corporations and co-operatives
K:	British Law transplanted to Australia was supplanted with Australian Law
L:	Technology facilitated improved international communications
X:	Deregulation of the Australian currency
R:	Regulatory jurisdictions defined co-operatives and corporations
S:	Reduced co-operative content in university textbooks and curricula limited co-operative information available to professionals

The deregulation of Australia's currency in 1983 constituted a conjunctural event that linked institutional and regulatory sequences. A confluence of factors, including increased global engagement, currency instability, and the rise of international regulatory bodies and standards, shaped subsequent corporate law reform. A novel reconfiguration of the path dependence sequence, illustrated in Figure 3 using regulatory jurisdiction, refines the earlier sequence shown in Figure 2. This reconfiguration identified a causal trajectory beginning with the promulgation of the *Corporations Act 2001* (Cth). The revised sequences, aligned with regulatory jurisdiction, confirmed the pre-formation, formation, and lock-in patterns of path dependence described by Sydow et al. (2009), illustrating how opportunities for change diminish over time. This methodology was also employed by Warren (2024) to analyse the complex interplay of institutional and legal developments in modern Italian history. Its theoretical strength and transferability were demonstrated in contrasting contexts: in Australia, where co-operative development was constrained (Bennison, 2024) and in Italy where it was enabled (Warren, 2024).

Figure 3: Influence of State and Commonwealth regulators on path dependence sequences, illustrating pre-formation, formation, and lock-in patterns influencing co-operative development (Bennison, 2024, p. 206).

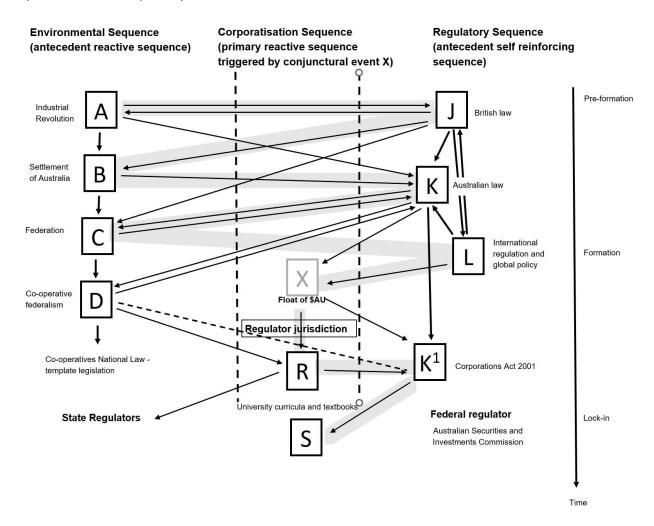
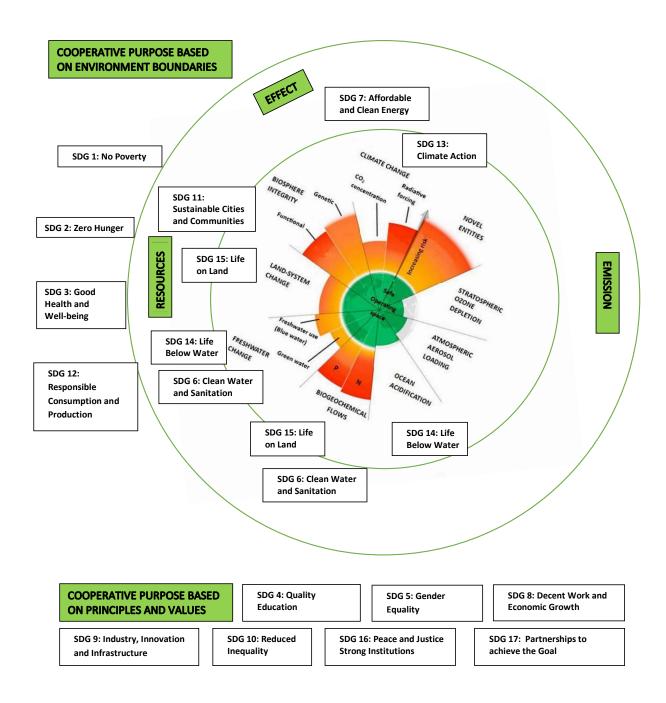


Figure 4: From corporation to co-operation: A meaningful model for corporate purpose



Source: Adaptation of the design by Azote for Stokholm Resilience Centre, based on analysis in Richardson et al. (2023) linked to biophysical processes, and overlaid with the UN Sustainable Development Goals (SDGs) and ICA co-operative principles (Planetary Boundary Framework (PBF) attribution creative commons license by-nc-nd 3.0).

Project Three: From Corporation to Co-operation: A Meaningful Model for Corporate Purpose

The third research project was published as an article entitled From Corporation to Cooperation: A Meaningful Model for Corporate Purpose (Bennison, Chapple & Sadiq, 2024). By drawing together the co-operative principles, first codified by the Rochdale Society of Equitable Pioneers, corporate purpose as established by law, and by referencing the UN 17 SDGs and the PBF developed by the Stockholm Resilience Centre (Rockström et al., 2009), a more sustainable contribution is proposed. The article was structured as follows. Part I provided context to the aim of understanding what can be learned from a co-operative's purpose to enhance the sustainability of the corporation as a business model. Part II evaluated the evolution of corporate purpose by defining a corporation, comparing the role of purpose, and examining shareholders, stakeholders, and purpose. Part III examined the evolution of business co-operatives, first defining co-operatives, next comparing principles and purpose, then members and purpose. Part IV considered two frameworks for sustainable co-operative purpose, the SDGs, and the PBF, and their interplay with the SDGs, before discussing a sustainable corporate purpose. Part V concluded by contending that a holistic approach is needed to create a more sustainable and equitable future, one that considers environmental, social, and resource aspects. By integrating environmental and biophysical limits with the UN SDGs, key goals can be identified, and once achieved, can facilitate aspirational goals. Progress toward these goals could be accelerated if corporations adopted frameworks based on co-operative principles, the SDGs, and PBF, striking a balance between collective and private wealth. Figure 4 illustrates this concept. The article concluded that developing a co-operative style of corporate purpose could support economic growth while addressing social and environmental challenges, providing a foundation for advancing the concept of a co-operative company.

Discussion

This research adopted a cross-disciplinary approach, drawing on relevant literature from science, law, and business. A deeper understanding of the evolution of co-operative entities was achieved by applying a co-operative lens that contextualised corporate purpose and structure. The parallel development of co-operatives and corporations highlighted the influence of the industrial revolution, guilds, chambers of commerce, friendly societies, the socialist movement, and trade unions as organisational responses that collectively addressed the needs of merchants, workers, and the community. While a coherent pattern of institutional support for co-operatives emerged in England, the development trajectory in Australia faltered. This divergence was shaped by the combined impact of distance, arbitration, technological change, legislative frameworks, and regulatory jurisdiction. These factors contributed to a regulatory environment in which co-operatives remained marginal to Australia's dominant corporate framework, limiting their visibility, scalability, and integration into mainstream economic and legal discourse.

Path dependence analysis revealed the critical role of regulator jurisdiction in shaping the development trajectories of both companies and co-operatives. The promulgation of the *Corporations Act 2001* (Cth) and the establishment of the Australian Securities and Investments Commission (ASIC) as a Commonwealth regulator introduced consistent national legislation supported by a well-resourced regulatory body for companies. The inclusion of Company Law among the eleven foundational knowledge subjects required for legal practice, as designated by the Law Admissions Consultative Committee and commonly known as the 'Priestly 11', ensured that law graduates possessed a working knowledge of Company Law. However, an unintended consequence of the 'Priestly 11' has been the reduced availability of teaching time for elective courses, including those covering co-operatives (Apps & Bennison, 2023). If co-operatives were regulated by ASIC under the *Corporations Act 2001* (Cth) as a distinct form of co-operative company, both awareness and understanding of the co-operative model could improve, since the company form is widely understood by professionals and the general public. Embedding a co-operative's distinctive purpose and principles within this familiar structure

would simplify comprehension. This approach contrasts sharply with the current regime, which presents significant barriers for professionals and advisors who must navigate multiple state and territory versions of the Co-operatives National Law or Western Australia's *Co-operatives Act* to understand and apply co-operative regulation.

As Australian co-operatives expand, their legal needs increasingly align with areas traditionally addressed by corporate law rather than laws tailored exclusively to co-operatives. These needs include, but are not limited to: company formation, governance, and dissolution; capital raising, financial markets, and mergers and acquisitions; as well as the legal frameworks governing insolvency, contracts, employment, taxation, environmental compliance, intellectual property, and consumer protection. Rather than creating or maintaining separate legislation for co-operatives, this research argues that Australian co-operatives would be better supported through the establishment of a co-operative company structure under the *Corporations Act 2001* (Cth). This approach addresses the issue identified in Figure 3, where co-operatives operate in isolation from mainstream Australian business, and facilitates their recognition among incorporated entities shown in Figure 1 (part b).

Transferring regulatory jurisdiction for co-operatives from state and territory governments to the Commonwealth offers several advantages. Foremost, it addresses an administrative barrier identified by co-operative stakeholders in the Senate Inquiry (Parliament of Australia Senate Standing Committees on Economics, 2016) by streamlining processes and consolidating regulatory resources. It would also help resolve the persistent lack of comprehensive data on co-operatives. The Australian Bureau of Statistics regularly publishes the Counts of Australian Businesses, using data curated from the Australian Tax Office's Company Tax Form. This data includes information such as industry type, location, institutional sector, legal structure, employment size, turnover, geographic region, and industry subdivision. Introducing a co-operative company structure and amending the Company Tax Form to include a tick box identifying whether an entity is a proprietary limited or a co-operative company would allow the same level of data collection for co-operatives as currently exists for companies. This would enhance the visibility of co-operatives and improve understanding of their contributions to the Australian economy. In practical terms, the inclusion of a co-operative company option would also raise awareness among tax agents and accountants who complete and submit tax returns. Consolidating co-operative data in this way would improve both the accuracy and currency of information, in contrast to the current system of five separate databases.

Future Research and Summary

Three areas for further research were identified. First, research into safeguarding co-operative assets could examine the use of asset locks and disinterested distribution clauses as mechanisms for protecting co-operative capital. The Association Model Rules on winding up an association offer an existing framework that could be evaluated within the co-operative context to assess the effectiveness of these protective measures. Second, analysis of co-operative content in university curricula and textbooks could improve understanding of the level of co-operative knowledge held by graduates in business, law, and accounting. This foundational understanding could support further research into how such knowledge influences professional decision-making regarding the adoption of the co-operative structure. Third, qualitative research using interviews and documentary analysis could provide deeper insights into the differing functions of co-operatives and corporations. Understanding the characteristics and determinants of successful Australian co-operatives could be further enriched by examining the management decisions of companies that chose to demutualise rather than retain their co-operative structure.

This research advocates for the specific application of Section 51(xx) of the Australian Constitution to co-operatives, whereby the states and territories cede corporations power over co-operatives to the Commonwealth, following the precedent established for companies under the *Corporations Act 2001* (Cth). Such action would address many of the administrative barriers identified by co-operative stakeholders in the Senate Review. In practical terms, the Executive

Officer of the Business Council of Co-operatives and Mutuals would become a member of both the Business Council of Australia, and the Australian Charities and Not-for-profits Commission. No longer hidden in plain sight, co-operatives would be recognised as either a company or an association operating with purpose and democratic principles (see Figure 1(part b)). Confidence in this approach is reinforced by Altman's (2009) observation:

... competitive markets and co-operative organisational forms are all quite compatible. *Ceteris paribus*, the case can be made that a world without co-operatives is, at a minimum, one that is poorer. (p. 570)

Providing co-operatives with a supportive regulatory environment would enable recognition of their significant contributions to Australia's economy. Guided by co-operative principles, values, the SDGs, and the PBF, the proposed co-operative company form prioritises people and the planet, offering a more meaningful contribution to society.

The Author

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