

1 July 2015

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TO: Committee Secretariat  
Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

economics.sen@aph.gov.au

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**RE: Submission to inquiry into co-operative, mutual and member-owned firms.**

Dear Sir/Madam,

The Community Power Agency is a non-distributing co-operative whose mission is to help grow a vibrant community renewable energy sector in Australia.

Community energy is an approach to renewable energy development that involves the community in developing, delivering or benefiting from the project.

Our submission will discuss the role and importance of co-operatives in the development of the community energy sector in Australia.

We are ourselves incorporated as a co-operative and we have provided some additional commentary on the barriers we have encountered in our recent journey of becoming a co-operative in Australia.

Our comments are below and we would be willing to give evidence to the Committee if you would like to discuss these matters further.

Sincerely,



Tom Nockolds  
Director  
Community Power Agency Co-operative Limited

## What is Community Energy?

The best definition of community energy for Australia comes from the recently released National Community Energy Strategy:

**“Community energy is where a community develops, delivers and benefits from sustainable energy projects. This can include supply-side projects such as renewable energy installations and storage and demand-side projects such as energy efficiency and demand management. Community energy can even include community-based approaches to selling or distributing energy.”<sup>1</sup>**

This broad definition accommodates the diversity found in community energy projects. It isn't possible to define community energy by:

- **Technology:** such as solar, wind, energy efficiency);
- **Scale:** the size of the installation;
- **Ownership:** individual, private, company, co-operative, or;
- **Motivations** of the community: action on climate change, self-sufficiency, local economic development.

Community energy projects are invariably driven by more than just a profit motive. For this reason we can usually identify community energy projects as being social enterprises.

As one community energy proponent puts it:

**“The dividend of community owned renewable energy is so prolific... in every way, the obvious things like financial [benefits], but the below the waterline benefits are much greater; the social capital, the skills development, the social networks, the community pride, the leadership that's taken. Community renewable energy has to be the most significant opportunity for social, community and environmental enterprise, bar none, in the developed world.”<sup>2</sup>**

## Co-operatives and community energy

There is a strong alignment between the co-operative values and principles and the motivations and desires of many community energy groups. This includes factors such as:

- Democratic control by members.
- Autonomy and independence.
- Capacity building of members through training and education

<sup>1</sup> National Community Energy Strategy, [c4ce.net.au/nces](http://c4ce.net.au/nces).

<sup>2</sup> Adam Blakester, Project Director, New England Wind, 2012. From the National Community Energy Strategy.

- Re-investment of profits and surpluses in communities.
- Creation of both social and commercial value for members and future members.

The experience overseas is that many community energy groups are attracted to the co-operative form. In Germany for example, there are now 888 energy co-operatives<sup>3</sup> in a country which boasts 46% of renewable energy capacity being owned by individuals and communities.<sup>4</sup>

In Australia the flagship community energy project, Hepburn Wind, was established as a co-operative and many other groups are following their lead. However there is growing evidence that community energy groups are being discouraged from embracing the co-operative form because of the barriers that exist in the Australian context setting.

**Our concern is that the potential for community energy is being held back because of too many groups choosing company, association and trust entity types which are not as well suited to their needs as the co-operative.**

The over dominance of the corporate entity type has resulted in a vacuum of supporting mechanisms for the co-operative sector in Australia. Our policy settings, regulatory systems, education institutions and government administrative bodies are all geared for companies and trusts and ill equipped to support co-operatives. Non-profits are also relatively well supported, however this doesn't cater for the unique needs of co-operatives.

## Community Power Agency: Case study of co-operative formation

The following information is provided to give the committee real world context of the sorts of impacts that are being felt by co-operatives in Australia due the barriers that exist for these enterprises.

In late 2014, Community Power Agency made a decision to form as a co-operative. We considered and evaluated multiple entity types before choosing the co-operative type and our decision was largely based on the strategic alignment between our objectives and the co-operative values and principles.

### Challenging registration process

Our registration process was extremely difficult, taking four months and involving difficult negotiations. Ultimately we were required to recruit support in the form of an expert in the registration of co-operatives and are thankful that this support was provided on a pro-bono basis. Without this support it is

<sup>3</sup> <http://www.unendlich-viel-energie.de/wachstumstrend-der-energiegenossenschaften-ungebroche>

<sup>4</sup> In Germany, 46% of renewable energy capacity is owned by individuals and communities. Over 200,000 people are members of energy cooperatives and have invested 1.35 billion Euros into renewable energy in Germany. Source

<https://www.dgrv.de/de/dienstleistungen/energiegenossenschaften.html>.

probable that we might have abandoned or delayed our plans to become a co-operative.

Community Power Agency lodged our application to form as a co-operative in early October 2014. We were finally successful in securing our registration on 21 February 2015.

We exchanged numerous emails with the registrar who was less helpful than we would have liked. The registrar challenged us on matters which were immaterial to our registration, such as our tax status and funding plans. They suggested we might be better off registering as an association, in effect discouraging our choice to become a co-operative. We speculate that this was driven by a motivation to avoid conflict with the regulator for corporates, the Australian Securities and Investments Commission (ASIC).

What is most telling is a phone call made to the NSW Department of Fair trading (the Registrar's office) soon after our application had been received. After making introductions, one of our directors explained who they were and what they were wanting to discuss. They were met with the exclamation "oh, you're the new co-operative!". It is such an unusual development at the registrar for co-operatives in NSW for a new co-operative to be approved that they can identify a phone inquiry by this fact.

### **Tax registration and commencement of trading**

Registration of a new company with the Australian Tax Office (ATO) typically takes approximately 24 hours. It is an online process which simultaneously provides applicants with an ABN and an ACN.

Co-operatives receive a co-operative registration number on incorporation. It is provided by the Registrar – in NSW this is the Department of Fair Trading.

Our experience with the ATO was that they were poorly equipped to deal with our status as a co-operative. At almost every event where we made a phone call to the ATO we were required to explain what a co-operative was (staff didn't have this basic knowledge, meaning we were forced to explain that a co-operative was an alternative entity type and not a sub-type of company).

The application forms we filled in had no provision for co-operatives and even the IT systems at ATO weren't able to handle our status as a co-operative. In particular, our lack of an ACN and our attempt to use our valid co-operative registration number in its place ultimately proved fruitless.

In the end we were forced to spend countless hours on the phone with the ATO while our issue was escalated so that it could be manually processed and approved. This whole process took us weeks and we were prevented us from commencing trading as an organisation while we waited for the problem to be resolved.

## Conclusion and recommendations

We thank the Committee for their time in considering our submission and hope our experience serves to highlight the importance of providing the supportive policy, regulatory, educational and administrative environment required to encourage the co-operative form in Australia.

Community energy has great potential for transforming Australia's energy systems so they can better serve the needs and desires of all Australians while providing greater equity. This potential can only be fully realised if groups are given equal opportunity regardless of the entity type they choose based on their strategy and vision as organisations. The co-operative will be an attractive option for the majority of community energy groups in Australia if the barriers are lowered to adopting and operating this type of enterprise.

We encourage the committee to focus on resolving these barriers and refer to the recommendations of the Business Council of Co-operatives and Mutuals (BCCM) for specific measures to achieve this.