

## **MATES in Construction | Supplementary Submission**

### **Senate Standing Committee on Education and Employment Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019 Inquiry**

Further to our previous Submission to the Committee the following points have been raised by Minister Porter's office to which MATES in Construction would like to respond.

#### **1. Donations to MATES in Construction by Redundancy Funds**

It has been suggested that the current status quo of payments of donations to MATES in Construction by redundancy funds which form a large part of our funding base as outlined in our original submission are not legally allowed currently in any event.

We have sought updated legal advice on this issue and can confirm that the donations are allowed under current law. What follows is a worked example of the authority for the donations:

For example, under the current Trust Deed of the Building Employees Redundancy Trust (B.E.R.T 2) which provides funding to MATES Queensland, S.27A.2 allows for distributions to be paid to any 'Approved Institution' under the Deed.

'Approved Institution' is defined under the Deed as:

*'a charitable or public education institution or fund established for public charitable purposes:*

- a) Approved by the Trustee on the basis that the relevant institution or fund has objects likely to benefit Members or participants in the Construction Industry; and*
- b) The institution or fund has been endorsed as exempt from income tax by the Commissioner under subdivision 50-B Income Tax Assessment Act.*

As such, as set out in our original submission a substantial amount of the MATES' funding is received from the Redundancy Funds by way of gift/donation. Because each of the entities in MATES are endorsed as DGRs, the Redundancy Funds are afforded a tax deduction for these donations.

If the Redundancy Funds are prohibited from making donations to MATES, the overall funding would be significantly reduced where the tax rate applicable would be the 47% rate applied to the funds. We reiterate that there is no compelling reason, legally or otherwise, that an employee based organisation, such as the Redundancy Funds, should be precluded from making donations to a legitimate and effective charity, which is properly registered, endorsed and regulated, and which is carried on for the benefit of the employees themselves.

## **2. Services provided at market value and on commercial terms**

It has been suggested that specifically MATES services would 'of course' qualify as services provided at market value, on commercial terms as they are very well known within the industry and delivered at a high level of quality. Our concern is as per our original submission that these terms have specific legal definitions that could have the effect of precluding welfare type services offered at no charge to the industry as per the MATES model and due to the multi-modal and comprehensive nature of the Program, it is wholly impractical for MATES to quantify the market value of the Program as required by proposed section 329LD(2)(b)(i).

Given the short time frame since these new issues were raised with us we have not been able to obtain written legal advice however on request we will be able to provide such advice over the coming weeks.

Chris Lockwood  
CEO, MATES in Construction (Aust)