

**Peter MacCallum Cancer Foundation**

Locked Bag 5 A'Beckett Street  
Victoria 8006 Australia  
Freecall 1800 111 440  
Telephone +61 3 9656 2700  
Facsimile +61 3 9656 2740

[www.petermac.org](http://www.petermac.org)



Manager  
Philanthropy and Exemptions Unit  
Personal and Retirement Income Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

22 August 2011

Dear Madam/Sir

**Public Ancillary Fund Guidelines 2011  
Request for Submission to Remain Confidence**

I am writing to request that the submission made on behalf of the Peter MacCallum Cancer Foundation in response to the draft Public Ancillary Fund Guidelines remain in confidence.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Doubell'. The signature is fluid and cursive, with a large initial 'J'.

Jennifer Doubell  
Executive Director  
**Peter MacCallum Cancer Foundation**

**Peter MacCallum Cancer Foundation**

Locked Bag 5 A Beckett Street  
Victoria 8006 Australia  
Freecall 1800 111 440  
Telephone +61 3 9656 2700  
Facsimile +61 3 9656 2740

[www.petermac.org](http://www.petermac.org)



Manager  
Philanthropy and Exemptions Unit  
Personal and Retirement Income Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

31 August 2011

Dear Madam/Sir,

**Public Ancillary Fund Guidelines 2011**

Thank you for the opportunity to provide comments and feedback on the Public Ancillary Fund Guidelines 2011 released for consultation on 14 July 2011.

**1. About Peter MacCallum Cancer Foundation**

The Peter MacCallum Cancer Foundation Ltd was incorporated as a company limited by guarantee on 13 March 2002. It was established to act as Trustee for the Peter MacCallum Cancer Foundation. The Peter MacCallum Cancer Foundation was created on 28 June 2002 by the execution of a Deed of Trust between the Trustee and its sole member – the Peter MacCallum Cancer Institute (trading as Peter MacCallum Cancer Centre).

The Peter MacCallum Cancer Foundation (PMCF) is a Public Ancillary Fund with the purpose of raising funds for the Peter MacCallum Cancer Centre, a public hospital and research centre dedicated to cancer. PMCF undertakes fundraising activities on behalf of the Peter MacCallum Cancer Centre, including through direct marketing, bequests, major giving, events, supporter activities and corporate partnerships.

In 2010/11 FY, the PMCF raised over \$9.7 million net and distributed \$8.6 million to the Peter MacCallum Cancer Centre. PMCF also maintains an endowment fund which provides seed funding grants to promising research initiatives and other projects at Peter MacCallum Cancer Centre.

**2. General Comments**

We support the Government's intention to introduce standards relating to the accountability and governance of Public Ancillary Funds. Having reviewed the draft legislation and guidelines, this letter sets out our specific concerns and comments on the draft Public Ancillary Fund Guidelines 2011.

### 3. Our Concerns

#### 3.1 Financial Statements

*26.2 All transactions (except for gifts) between the fund and a founder of the fund, a donor to the fund, the trustee, a director, officer, agent, member or employee of the trustee or an associate of any of these entities must be disclosed in the financial statements.*

The form of this disclosure (i.e. a sum total or per transaction basis) is unclear from these guidelines. Nevertheless, given the broad range of individuals/entities (and 'associates') which fall into this guideline, meeting this obligation would prove to be onerous for organisations such as PMCF, without there being any real increase in transparency. For example, some suppliers (or their employees/directors) are also donors to PMCF, which is common practice in the fundraising field. In some cases, the association may not be known to PMCF. All reimbursement of all staff expenses would also be required to be disclosed.

In addition, the definition of officer or agent in the context of this guideline is unclear.

Recommendation:

The guideline be changed to: 'All transactions (except for gifts) between the fund and a founder of the fund, the trustee, a director, member must be disclosed in the financial statements'.

#### 3.1 Audit

*28. Each financial year the trustee must arrange for an auditor to audit:...*  
- *Compliance with these guidelines by the fund and the trustee.*

We are concerned about a further auditing requirement being imposed on charitable organisations. This is in addition to existing ad hoc auditing requirements such as annual audits on compliance with Western Australian fundraising legislation required as part of WA's registration to fundraise. The implementation of a further auditing requirement further increases the administration burden and cost, reducing the amount of funds which can be distributed to the recipient entity.

#### 3.2 Uncommercial Transactions and Benefits to Founder/Donor

*42. The fund must not provide any benefit (except as set out in guideline 43), directly or indirectly, to:*  
...  
- *A member, director, employee, agent or officer of the trustee...*

Under the above draft guideline, the Peter MacCallum Cancer Foundation would be prevented from distributing funds to Peter MacCallum Cancer Centre (its member) for the very purpose for which the Foundation was established.

Furthermore, the winding up clause in the PMCF's Deed of Trust states that '*if, on winding up the Trust, any property remains after the satisfaction of all its debts and liabilities, the Trustee must give and transfer the property to: 1. The Name Institution...'*. If this guideline were to be implemented in its current form on winding-up, the Foundation would be unable to abide by both trust law and these guidelines.

Furthermore, the definition of benefit is unclear and how this guideline would be applied to employees and related financial remuneration and non-financial benefits (e.g. training and development opportunities) is of concern.

42. *The fund must not provide any benefit (except as set out in guideline 43), directly or indirectly, to:*

...

- *a donor the fund*

It is not clear if a 'benefit' in this situation would include recognition of the donor, such as inclusion in an annual report or on an honour board.

Recommendation:

The definition of 'benefit' should be included in the guidelines, taking into consideration that which are staff management and fundraising best practice.

### 3.3 Donors

45. *Note 2. ...However, the fund must be under no obligation to comply with any request from a donor.*

It is not unusual for a donor to request that a donation be used for a particular purpose, either broadly (e.g. 'research') or more specifically (e.g. 'Prof Smith's research into the metastasis of cancer'). The PMCF firmly believes that it has a moral obligation to use the funds for the purpose intended by the donor or, if that is not feasible, to discuss with the donor how else the funds will be spent. It is unclear how this statement in the guidelines improves the accountability and/or governance of Public Ancillary Funds. Rather we are of the opinion that it could lead to reduced accountability for Public Ancillary Funds.

Recommendation:

This guideline should be removed.

46. *The fund must issue a receipt for every gift it receives*

As a Deductible Gift Recipient, we are required to comply with tax law requirements for issuing of receipts. The Australian Tax Office Gift Pack states '*DGRs are not required by tax law to issue receipts for deductible contributions...*' (Ref. Gift Pack (NAT 3132-04-2011), Australian Taxation Office, 2011, pg.104). There are cases when issuing a receipt is not possible or preferred, such as when a donation is anonymous or when requested by the donor (e.g. pensioners who do not require a receipt for taxation purposes).

Recommendation:

Obligations for receipting should be in keeping with current tax law and we recommend the guideline wording be changed to:

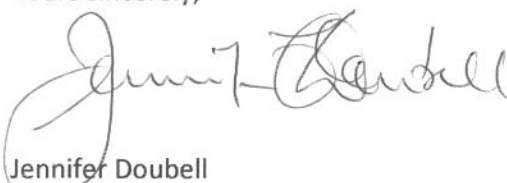
*'The fund must issue receipts in keeping with relevant tax law. When issued, the receipt must include the name and ABN of the DGR and the fact that the receipt is for a gift'.*

### **3.4 Other Comments**

Currently a DGR Item 2 (e.g. Private Ancillary Fund) is precluded from donating to another DGR Item 2 (e.g. Public Ancillary Fund). While it is not addressed in the guidelines, we are strongly of the view that Private Ancillary Funds should be able to donate to Public Ancillary Funds. This clause precludes many private individuals who facilitate their giving through a Private Ancillary Fund from donating to worthy causes. In order to ensure that funds are distributed for the community's benefit, Public Ancillary Funds should remain unable to distribute to Private Ancillary Funds.

Thank you for considering our feedback on the draft guidelines. If you have any questions, please do not hesitate to contact me on (03) 9656 2740.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Doubell', written in a cursive style.

Jennifer Doubell  
Executive Director

**Peter MacCallum Cancer Foundation**