

PG Press

Perpetual Guardian Newsletter

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Kia ora koutou,

What an amazing summer it has been. We have also been spoiled by the warm weather as we are guided gently into the colder months.

Over summer, Perpetual Guardian was fortunate enough to partner with Sculpture on the Gulf for their bi-annual event on Waiheke Island. This spectacular exhibition made for an

impressive walk which was enjoyed by many... including some of our clients and the team from Perpetual Guardian.

We also had the privilege of facilitating the visit of Professor Helen Christensen, through funding from the Ted and Mollie Carr Travel Fund. Professor Christensen is leading the charge in research into the prevention and treatment of mental health issues and her lectures were well received by all in attendance. Planning is well underway for our next international visitor – watch this space!

Another recent highlight for me was successfully securing the letter that Sir Edmund Hillary wrote just before his ascent into the history books. The letter lays out Sir Ed's wishes should his expedition not lead to his safe return – such foresight when under such extreme pressure. We are thrilled that these letters are now being held at the Auckland Museum for all to enjoy.

This edition of PG Press also brings you updates on changes in our industry that may be of interest to you. We delve into the treatment of digital assets, within the context of your personal estate plan as well as discussing the lie of the land for rural Trustees. Do reach out to members of the Perpetual Guardian team if you'd like to understand more about how these topics might impact on you.

The team is working hard to continue to make a difference in our local communities, more news of this next time. Stay warm, dry and safe over the winter period.

Ngā mihi
Andrew Barnes, Perpetual Guardian Founder

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The lie of the land - rural Trustees in New Zealand

Graeme Frewin, Branch Manager Wellington and Nelson, describes the obligations of Trustees working with New Zealand's rural-based entities, from health and safety to environmental responsibilities.

It is estimated that the majority of rural properties in New Zealand are owned by trusts. Against this backdrop, this article offers a useful round-up of the fairly simple, yet ironclad, rules that all trustees working with rural-based entities should operate in accordance with.

Trusteeship fundamentals apply

A good trustee welds technical know-how with relationship skills, and 'rural trustees' must have a good amount of the former, often requiring some specialist knowledge about complex primary industry-related operations. To bolster their own knowledge and experience, a rural trustee will need to work with a range of professional advisors – often including farming experts – as well as various members of the interested family.

Maintain professional distance

The job of a rural trustee can be a delicate dance; they must know their clients well, but remember that

they are a service provider, not a friend. For rural trustees who are not also part of the family, it is arguably easier to maintain professional boundaries, but this can also mean being more distant physically from the (often remote) property or asset under trusteeship. In this scenario, a trustee will often work with another on-site expert, such as a farm advisor or manager, to ensure the free flow of information and full compliance.

Professionalism at all times can be tricky when the rural trustee is part of the family involved in the trust. Given the close, sentimental attachment many farming families have to the land, it is common for a member (or members) of a family to be a trustee. The overriding responsibility is to understand from the trust beneficiaries what their desired outcomes are, and then to monitor and accommodate the inevitable changes over time.

Stay aware, stay compliant

Get the governance right. The diversity of business conducted on rural properties and the legislative requirements in trust law mean the trustee needs a clear game plan to ensure the productive and compliant running of the rural business and sound trust governance. The rural trustee must be familiar with a variety of laws pertaining to trust-owned rural land or businesses, including the Trustee Act 1956,¹ in particular its prudent person rule; the Health and Safety at Work Act 2015 (HSWA);² the Resource Management Act 1991 (RMA);³ the Employment Relations Act 2000 and the subsequent amendments; and contract law.



HSWA and RMA

There are a couple of key examples where the rural trustee is deemed responsible. First, HSWA obligations on any site or property held by the trust: New Zealand has an alarmingly high rate of workplace accidents, injuries and deaths, and over 50 per cent of work-related deaths between 2011 and 2017 were attributable to the agriculture industry.⁴ A trustee must consider how they can prove what they have done to understand and enhance hazard identification in the workplace environment for employees or third parties working on property owned by the trust.

Under the HSWA there is neither a 'firewall' nor the ability for a trustee to indemnify or insure themselves. Trustees stand personally exposed should legislative or regulatory obligations not be met – and ignorance of the law is not a defence.

Second, the RMA is New Zealand's primary legislation for environmental management, and is based on the principle of sustainability. Prosecution for breaching the terms of the RMA is not necessarily limited to the person actually carrying out the illegal act, with sentencing options under the Criminal Procedure Act 2011 including monetary fines or imprisonment.

Team up

As well as a risk advisor and wealth manager, rural trustees in particular will benefit from close cooperation with the following: Farm advisors, who assess whether the farming practice is current, and whether benchmarking is necessary to provide good husbandry and geographical competitiveness.

Specialist advisors, who may advise on niche industries, e.g. honey production, viticulture or mussel farming. Regional authority liaison officers, who ensure an informed approach is taken to working with the land.

This team should operate like any other successful business. It should be based on a sound business model that is directed at achieving the stated goals and objectives of the business of the rural operation and its owners, e.g. providing regular and consistent cash flow, long-term capital appreciation and intergenerational sustainability.

Sustainability, financial or otherwise, is particularly important, and the rural trustee must remain cognisant of their role in not only protecting the family's wealth, but also preserving the history represented by the rural asset.

Sources:

1. www.legislation.govt.nz/act/public/1956/0061/latest/whole.html
2. www.legislation.govt.nz/act/public/2015/0070/55.0/DLM5976660.html
3. www.legislation.govt.nz/act/public/1991/0069/211.0/DLM230265.html
4. www.worksafe.govt.nz/data-and-research/ws-data/fatalities/by-focus-area

Behind the scenes: Sculpture on the Gulf

The Perpetual Guardian team had the pleasure of being key sponsor of the 2019 Perpetual Guardian Sculpture on the Gulf on Waiheke this year.

As part of this, the team organised a staff and family day for team members across the country to enjoy the Waiheke event.

Here are some pictures from the day we wanted to share with you; we also absolutely recommend putting this on your to-do list for next time!



About the 2019 Perpetual Guardian Sculpture on the Gulf

Run from 1 - 24 March, the open-air exhibition presented a range of fully accessible, interactive and stimulating resources to engage young and old.

Over a 2 km coastal path, 28 artworks from local artistic talent were displayed throughout the month. Leading from Waiheke's Matiatia Headland right to the Community Art Gallery, visitors got to enjoy the impressive event at their leisure.

You can find out more about the event on www.sotg.nz

Perpetual Guardian has also agreed to partner with the Waiheke Community Art Gallery in sponsoring the national Small Sculpture Prize. The exhibition is an opportunity for Perpetual Guardian to further our support of the Arts in New Zealand and we are excited to join the Gallery in our new partnership.

Philanthropy Focus: The Ted and Mollie Carr Travel Fund

The Ted and Mollie Carr Travel Fund is one of the many Charitable Trusts the Perpetual Guardian team is proud to work with.



Late last year, funding from the Ted and Mollie Carr Travel Fund - in collaboration with the Rotary Club of Downtown Auckland - supported the visit of Scientia Professor Helen Christensen for a public lecture at the University of Auckland's Medical School.

About Professor Christensen

Professor Christensen is one of only two National Health and Medical Research Council (NHMRC) John Cade Research Fellows and is Chief Investigator for the Centre for Research Excellence in Suicide Prevention.

She is also on the Million Minds panel, a government initiative that has brought together the most distinguished academics and mental health professionals to reduce the prevalence of mental illness and suicide.

Professor Christensen is a leading expert in using technology to deliver evidence-based interventions for the prevention and treatment of depression, anxiety, suicide, and self-harm. Her research also encompasses prevention of mental health problems in young people through school-based research programs.

These programs are aimed at prevention of depression and suicide risk through eMental Health interventions. She has published over 450 peer

reviewed publications with an outstanding H-index (the metric used to assess impact of research) of 82 (a respectable H-index for a professor would be over 20).

Public lecture on suicide prevention

Over 90 attendees were drawn to the public lecture on a well-researched framework to consider ways in which we could reduce the troubling suicide rate in young people.

During Professor Christensen's visit the Rotary Club of Downtown Auckland also organized a research forum, which provided a platform for stimulating discussion and advice to academics in the Department of Psychological Medicine.

This was attended by a number of staff working in this area and led to wide-ranging discussion of work at the Black Dog Institute and within the Department.

Finally, Professor Christensen attended a regular peer review group for child psychiatrists which again was well attended, and discussed ways in which the Black Dog Institute could provide practical support for clinicians.

Between these events there were opportunities for less formal discussions about potential collaborations, and about some of the practical issues faced in Australia and New Zealand as we try to tackle the important problem of youth suicide.

The funding provided by the Ted and Mollie Carr Trust provides a wonderful opportunity to interact with international experts like Professor Christensen, and to support the Auckland School of Medicine as it tries to create frameworks to deliver mental health care to young people with the best international standards.

At Perpetual Guardian we are lucky to get to work on initiatives like these. This is only possible because of the generosity, foresight and vision of the New Zealanders that create Charitable Trusts like the Ted and Mollie Carr Travel Fund.

Digital Assets: But do I even have digital assets?

Chances are, yes you do!

What is likely though, is that you haven't factored any of these into your formal (or even informal) estate planning or discussions.

Keeping memories alive, digitally

Summer is the time to create great memories with and for family, friends, and life in general. In most cases, these are held on one or more digital platforms. For 'sentimental valuables', it's hard to go past reliving those moments through the photo album, or more frequently on your digital device.

The problem here is, like the human body, devices break down, get old, lost, or simply stop working. Thankfully, we have this mystical environment called the "cloud" that means even if you don't have your device, you still have your "account" which can be accessed via a new or replacement device.

So far so good, right?

Should you consider digital accounts in your estate plan?

Well, sort of. What if something unforeseen happens to you? How do your executors, husband/wife/partner, or children access your "digital" accounts to gain access to those memories?

You should plan what will happen to your digital assets on death, or even incapacity, in very much the same way as for your physical assets.

Some reasons include:

- Financial value
- Sentimental value
- Identity theft
- Privacy and confidentiality

These are all important considerations that should form part of your formal and informal estate planning discussions. Important points include making an inventory of your digital assets, where to access passwords etc., and considering appointing a trusted representative who can manage these accounts if you can't.

Tell them what you would like to happen and give clear directions before it's too late.

What digital assets do you have?

So, in case you're thinking what do I/could I have in the way of digital assets, let's consider a few to get you thinking:

Photos, videos, music, e-books, blogs, movies, emails, important emails, bank accounts, medical records, social media accounts, private messages, online trading accounts, gambling and gaming accounts, online businesses.

Other "non-physical" assets include loyalty programme points, airline/hotel reward points, Fly Buys etc., some of which can have considerable accumulated values.

It's certainly well worth having a read of the fine print, particularly with Airpoints reward schemes. The process from discussion to distribution looks something like this:

- Find them
- Record them
- Secure them
- Administer them
- Distribute them



How Perpetual Guardian can help

So you've identified that there are some valuable "non-physical" assets to consider as part of your estate planning. What now? The next step is to discuss the best way to capture these as part of your estate planning with your local Perpetual Guardian adviser.

Our contact details can be found on the back of this newsletter.

Andrew Barnes and Perpetual Guardian successful in bid for Sir Ed letter

A remarkable piece of New Zealand history has gone under the auctioneer's hammer and with the funding support of Perpetual Guardian founder, Andrew Barnes – has been successfully secured by Auckland Museum for permanent public display in the Hillary collection.

The letter was written by Sir Edmund to his brother Rex shortly before he made his final push towards the summit of Mount Everest in May 1953. It lays out his intentions and wishes should he not return home from the dangerous expedition. Mr Barnes's winning bid at Cordy's Auctioneers in Auckland was \$62,000. Other items auctioned on Tuesday include other letters and postcards from Sir Ed, and a Nepalese pendant displaying a piece of rock the mountaineer collected from the summit of Everest. The items were sold by Sir Ed's nephew John Hillary, Rex Hillary's son.

Mr Barnes says, "Although Sir Ed's letter did not constitute a legally binding Will, we wanted to purchase the document and donate it to the Hillary collection as an example of the kind of foresight which protects families.

"Our business is founded on the proposition that every New Zealander should have a Will, and every child deserves the protection of one. Sir Ed's actions show remarkable leadership and foresight, in what must have been some of the most daunting and sobering moments of his life, and is an example of the value of making your final wishes known. Making your Will can be very straightforward and inexpensive – you can even do it online or on camera – and it is one of the most important and caring things anyone can do for their loved ones."

Sir Edmund's son Peter Hillary says, "We are pleased that a number of benefactors have come to the party to assist Auckland Museum in the auction of the letters and the Everest summit rock. Outside of the immediate Hillary family I don't think there is a collection equal to this, and of course most of our Ed Hillary family collection already resides with the Auckland Museum."



David Reeves, Director - Collections & Research at Auckland War Memorial Museum Tāmaki Paenga Hira says, "We are delighted to be able to secure these letters which enhance the existing collection at Auckland War Memorial Museum. These items will join the extensive archive documenting Sir Ed's life and work already held at Auckland Museum along with important artefacts gifted by his children. These collections all help us to understand the remarkable feat that led to an enduring relationship between Edmund Hillary and the Sherpa people of Nepal.

The letter will be held in the Museum Library, which holds over 3,700 manuscripts collections, with other items of particular note, including the 19th century papers relating to the pioneering Williams family, Sir John Logan Campbell, James Busby and the Reverend Vicesimus Lush. It will also be available to view on Collections Online joining more than one million catalogue records from Auckland Museum's natural sciences, human history and documentary heritage collections.

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