

3. BEQUEST – ESTATE OF LEIO WILFRID TIMPERLEY

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Under the will of the late Leio Wilfrid Timperley the Council was one of a number of beneficiaries. The Estate has now been wound up with the Council receiving a sum of \$330,276 as its share of the Estate. The purpose of this report is to consider and determine how the bequest may be best dispersed in a way that satisfies the intent of the will.

BACKGROUND

The late Leio Wilfrid Timperley, a retired farmer, died in Christchurch on 9 May 1982. Briefly the will, which was made December 1973, provided:

- (a) A gift of farmlands at Doubleday Road, Kaiapoi to be applied in or towards the cost of establishing and/or maintaining and improving a public zoological garden and amusement park for the benefit and enjoyment of the citizens of Christchurch.
- (b) An interest in the residue of the Estate which in the main consisted of a homestead in Yaldhurst Road. The property was the subject of a life interest to his widow and to the payment on her death of certain gifts as well as to payments necessary to maintain the property and meet the various requirements of her during her lifetime.

At the time the District Public Trustee was advised that it was not the Council's intention to establish a zoological garden and amusement park at Kaiapoi because:

- (a) The bulk of the value of the bequest lay at the farmlands at Kaiapoi. Little or no finance would be available therefore for the provision of facilities, exhibits, etc. The finance that could be anticipated would be insufficient to meet establishment costs, operation and maintenance expenditures.
- (b) The likelihood that the finance available to the Council may well be diminished as a result of action being undertaken under the Family Protection Act by some of the beneficiaries.

The Council also sought to settle the claims of the Timperley family out of court in a way:

- (a) Which satisfied the Timperley family.
- (b) Which did not offend any principle of law although those principles could be generously interpreted so far as the Timperley family was concerned.
- (c) Which resulted in interpretation of the will acceptable to the Trustee which would give the Council flexible control over the residual which would come to it.

Following protracted negotiations with the Estate and beneficiaries over a five year period agreement was finally reached with all concerned to settle the will on the following basis:

- (a) The assets of the Estate were to be held by the Public Trustee and dispersed as following:
 - (i) To pay all of the deceased debts and Estate duty and all expenses properly incurred by the executor and the administration of the Estate.
 - (ii) To pay the Executor's fees and charges in respect of the administration of the Estate.
 - (iii) To pay a legacy of \$5,000 to a beneficiary.
 - (iv) To meet the cost of subdivision of the Yaldhurst Road property including professional fees and actual development costs.
 - (v) To pay all taxes assessed payable by the executor.
 - (vi) To pay the Council's legal costs in respect of litigation.
- (b) The residue of the Estate was to be divided into thirty-six equal parts and be dispersed to the beneficiaries.

The above agreement satisfied the conditions laid by the Council at the time and in particular removed the restriction imposed by the will requiring the Estate to be directed to the establishment of a zoological garden at Kaiapoi to the effect that the money could be utilised by the Council for other zoological purposes that would commemorate the memory of the late Mr Timperley.

CURRENT POSITION

The Public Trustee has confirmed that Mrs Timperley died on 5 December 2003 and that it was now in a position to make payment to the Council of its share of the Estate which amounted to \$330,276. This amount has now been received.

When the intent of the bequest became known, Sir Hamish Hay during his term as Mayor of Christchurch informally raised the prospect of making the bequest, when received, available to the Orana Park Wildlife Trust as this appeared to be in keeping with the intent of the will. On receipt of the bequest the Trust were asked whether the funds, if made available to it, could be used in a way that satisfied the terms of the bequest and also in a way that commemorated the late Mr Timperley.

The Trust has now advised as follows:

"We are delighted to have the opportunity to put forward a proposal in relation to the above estate that would be entirely in keeping with the late Leo Timperley's wishes and also provide for a very fitting memorial.

Our proposal is to build a new Tiger Exhibit at Orana Wildlife Park that would include a marble memorial plaque acknowledging the gift of Leo Wilfrid Timperley. This new exhibit would be heartily welcomed and enjoyed by the whole community, whilst at the same time providing much needed new facilities to enable the Park to participate in the captive recovery programme for the critically endangered Sumatran Tiger.

In July and December 1999, the last two tigers at Orana Wildlife Park passed away due to old age. The tigers previously held at the Park were kept in a non-breeding situation due to the fact that they were hybrids (ie Bengal/ Siberian cross-breeds). Orana Wildlife Park, in association with our 50 regional partner zoos in New Zealand and Australia, agreed that Sumatran Tigers would be the focus of our region.

The latest research data estimates that only 200 Sumatran Tigers are left in the wild. Numbers are continuing to decline due to the on-going illegal trade of tiger body parts and the destruction of their forest homes. Our regional captive breeding programme is absolutely essential to insure this precious species against extinction. Three of the eight subspecies of tiger are already extinct and the remaining five subspecies are all critically endangered.

The existing old tiger exhibit at Orana Wildlife Park was built in 1975. It is small, has inadequate den facilities and is simply not acceptable for keeping endangered Sumatran Tigers. Although the regional Sumatran Tiger Programme is crying out for additional holders, we have been unable to participate due to lack of suitable facilities.

In addition, our visiting public regularly ask if and when we will once again have tigers on display at Orana Wildlife Park. Our answer, of course, is that we would love to, however, we will need to raise approximately \$300,000 to make this possible.

As you are aware, Orana Wildlife Trust is a registered charity with the aims of providing quality recreation facilities for the community, conservation work in support of endangered species, education and research. Orana Wildlife Park is the only major zoological facility in the South Island and is indeed an asset to the City of Christchurch. In addition to fundraising to cover general operating expenses, we must separately fundraise for every new capital addition to the Park. The cost of a new tiger exhibit has simply been too large for us to contemplate, considering that in recent times many philanthropic trusts have reduced their annual grant allocations due to decreased investment returns and some have in fact temporarily suspended funding for capital projects.

In summary, we truly believe that Leo Timperley's gift would be well utilised for this important project for the following reasons:

- 1. The project is entirely in keeping with Leo Timperley's wishes and would provide for a fitting memorial to him.*
- 2. The people of Christchurch continually express their desire to see tigers at Orana Wildlife Park once again and our low cost annual Park membership (allowing unlimited entry) ensures that our local people can easily access the animal attractions that Orana has to offer.*
- 3. The new facilities would enable our city to make a significant contribution to the captive conservation efforts for the critically endangered Sumatran Tiger.*
- 4. The new exhibit is certain to increase visitor numbers to Orana Wildlife Park, thereby helping ensure the on-going financial sustainability of this wonderful asset to the city of Christchurch.*

5. *The Sumatran Tiger would be an excellent study focus for the thousands of school children who visit Orana annually to study endangered species. The Park is formally contracted by the Ministry of Education to provide environmental education programmes to Canterbury schools.*

Park management staff have the skills, experience, commitment and determination to ensure that this project would be completed in a timely manner and within budget parameters. We would be honoured to carry out Leo Timperley's wishes by providing such a wonderful gift to the people of our city. The Park's Development Committee has only completed conceptual work on the tiger exhibit project at this stage and our initial estimate of costs would be in the order of \$300,000. Of course, the Committee will be reconvening shortly and will treat the detail design and costing of this project as a very high priority."

Staff

Recommendation: That the Council approve the transfer of the funds to the Orana Wildlife Trust for the intended purposes subject to an appropriate Deed being entered into to satisfy the intent of the bequest.

The Chair and Deputy Chairman comment:

The former Mayor, Sir Hamish Hay, considered and gave advice on behalf of the Christchurch City Council that, in keeping with the intent of the will, the bequest should be made available to Orana Wildlife Park, when received. We agree that this is appropriate as Orana Wildlife Park is a public zoological garden. It also recognises the valuable contribution Orana Wildlife Park makes in the education, economic and wildlife conservation fields and the successful work of the trust board in developing the park which has undergone considerable improvement and advancement in recent years.

Chair's

Recommendation: That the above recommendation be adopted.