

## **Donating to Museums Now and in a Will - 14/10/2014**

Presentation to the Conference of the Council of Tramway Museums of Australasia (COTMA). 1p.m. Monday 13 October 2014, SS South Steyne, Darling Harbour.  
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I thank Howard Clark for his invitation to me to give this talk. It arose after a brief discussion on philanthropy in relation to museums after a very long and pleasant lunch back in August this year.

I come to this topic as a result of my own personal experience in the matter of some gifts to institutions and partly as a result of my work for the NSW Heritage Office over 25 years where I dealt with the issue of some gifts of heritage items to the Government.

I have in mind two parts to this talk:

In the first part - a brief reality check for all of us as to what papers we ought to have in place in terms of end of life planning.

In the second part - to address the question of philanthropic gifts both while we are alive and in our wills.

In regard to philanthropic gifts there is a transport museum connection and it is on this subject I would like to share some thoughts with you both on the matter of giving or bequeathing cash and/or heritage to a museum. After this talk I hope there will be some discussion of your own thoughts on the matter that we can share.

I know this is not the lightest of subjects to talk about especially here on the South Steyne in Darling Harbour. But I hope you will all agree it is a topic we should address. And I can tell you there is an upside to it - **its called peace of mind**. I hope this talk will encourage you to do some planning for the future to get that peace of mind.

And to give you further peace of mind there is no need to take notes - I will give COTMA a copy of this talk that you can view at your leisure.

I need to advise I am not a lawyer nor an estate planner nor an accountant so please make your own inquiries before taking any action.

### **Firstly, a brief run down in terms of end of life planning.**

I have attended a couple of talks on this subject. The main take home message from

these talks was the need to have clear documents to show what we have in mind - **to leave no doubt to others what you want to happen.**

While there are rules about how the end of life documents should be written there is no rocket science in this and the good news is that all of the template documents you need are available free online. Some of these will change a little from state to state and overseas so please check these on-line.

There are five documents that you ought to consider having in a safe place and copies with someone you can trust:

1. **The first is a legal will.** You can download a simple will or have a legal or estate adviser draw one up for you if you would feel more comfortable or your affairs are more complicated. In the case of museums a will gives you the ability to make a specific cash or artefact donation to a museum. Or to leave all of your estate or residual amount to a museum after distributing some of assets elsewhere e.g. to your family. In the case of a cash and artefact bequests you could leave it no strings attached or you can specify why the money or artefact is being bequeathed. It almost goes without saying you need to be as clear as possible as to your wishes.

An important reason for being clear about a bequest is that it can be challenged e.g. by your family. There are 4 tips to minimise problems:

- i) Get the name of your chosen beneficiary organisation right. Some organisations have similar names or they change names over time. Ideally, your will should give your executor the power to deal with wrongly named charities or charities that have ceased to exist after the will was written - in the case of the latter one suggestion is that you name alternative beneficiaries should the first not exist when the time comes.
- ii) Prepare and sign a simple statement about your motivations for your will. This will clarify matters if there is a challenge. This statement does not usually form part of the will and is only made public if the will is challenged.
- iii) Consider talking with your intended beneficiary organisation to tell them what you have in mind and to find out what is the most appropriate type of gift. It may have programs and plans for the future which you might want to support - and it could be something which you had not considered yourself.
- iv) Consider discussing your bequest idea with your family. This will be dependent on your circumstances. If you have a close family it is a good idea and will help see your wishes fulfilled. If however, raising the subject is likely to be a source of stress and conflict, you may wish to discuss with your executor or lawyer.

2. The second document you need is **plain English information and instructions** to your executor concerning your estate. You do not need an on-line template for this. This document will record where you keep your bank accounts, where deeds to

property are held, how one's superannuation is set up and whether and how it passes to your spouse or partner, what insurances you hold, how bills have been paid, what subscriptions to cancel etc. One suggestion I have is that you underline all of the suggestions you have to make to your executor e.g. sell this property, advise my super fund, end my insurance payments etc. Our lives are more complex than ever and it is not kind to give your family or executor the burden of trying to find out how you did things in life especially when it only takes you a short period to record what you already know or have access to. Its also a great way to reflect on just how well your house is in order should something happen to you.

### **The next three documents operate while you are alive but not not able to take care of yourself.**

3. An **Enduring Power of Attorney** provides someone you trust with the ability to act on your behalf in respect of financial and property matters while you are alive but when it is clear you are not able to make decisions for yourself.

4. In relation to your health care at the end of your life it is very useful to have an **Advanced Care Directive**. An Advanced Care Directive is a document that states your wishes regarding your future health care but it only comes into effect if you are unable to make your own decisions. Importantly it addresses the thorny issue of the unnecessary prolongation of life. Again there are several templates available on line for you to use.

5. The final document also relates to your end of life health care and life style and its called an **Enduring Guardianship**. It differs from a power of attorney in that a guardian can make personal and health decisions for you if you lose the ability to do so.

### **Philanthropy and Museums**

I now want to turn to the topic of Philanthropy and Museums.

The first thing to say is that non-profit museums would not exist without the philanthropic contribution of members in both artefacts, knowledge and sheer hard work. But you can assist the long term future and major enhancement of these museums by future donations and it is this subject I want to address now.

We are often told how poor we are at philanthropy in this country. Quite often this discussion refers to the philanthropy of the rich in the USA compared to our rich here.

How true any of this I am not sure but what interests me most is that philanthropy has changed for more people than just the rich.

- Compared to the past many more people are comfortable and/or well off and in a position to contribute to public organisations including museums as well as main stream charities.
- We are living longer, and in the case of collectors, this can mean very large and valuable collections of heritage items can be accumulated.
- We generally have fewer or no children or else they are grown up and established and there is less need to consider leaving all of our assets to them. There is therefore some latitude to think of the public arena and how we might do some good there.
- It is also true to say that our relatives and friends may not share our same interests. Our wish to see collections looked after might be better served by making arrangements for at least this part of our estate to be gifted to a body that will value and care for them

I spoke earlier of end of life planning but in the case of philanthropy it is worthwhile asking why not give while you are still alive rather leave in your will.

**There are several benefits to you of gifting while you are alive.**

- Firstly and most importantly you get the chance to enjoy gifting while you are alive - and it is and should be a joy.
- Perhaps the next best reason for gifting now is that you may have a much greater chance of seeing your wishes properly attended to rather than leaving instructions in a will or related documents. It would certainly remove any uncertainty that might arise in a will as you will have already made the gift.
- In some cases it may be possible to make a gift to a body now but retain them in your care until a later time or on your death.
- In the case of heritage items giving now will make them more readily accessible by your colleagues and the general public.
- Giving documents now including photographs makes them immediately available for research to people who share your collecting interests especially if they can be made available on-line. I appreciate that document collecting never ends but knowing that at least a copy of your important documents is in safe hands must provide some peace of mind. And I should think there would be no little joy in being able to have correspondence with people here and overseas in relation to the documents you have collected.
- Giving now means you no longer have the worry about the upkeep of the items

concerned - maintenance, security and insurance - and yet you still have access to these items in your museum of choice.

- Giving now means you get the chance to encourage others to follow your lead. One of the issues for philanthropy is that there are too few public examples of gift giving. On this front you might want to consider making it clear that you have no objection to your gift being made known.
- Finally giving now also means you may have the chance to get the value of the gift as a tax deduction. **There are three possible ways of doing this:**
  - A. If your gift is to an institution which is one of the hundreds recognised by the Commonwealth's Cultural Gifts Program you can get a tax deduction for the assessed value of the gift. As an example if you normally pay tax at the rate of 34 cents in the dollar and you give a gift valued at \$10,000 then you will save \$3,400 in tax. These gifts can include real estate, movable heritage items, paintings etc. Most universities and larger museums have this facility. As an example a major collection from the Mastertouch Piano Roll Company was gifted to the Power House Museum in Sydney under this program. I knew the owner Barclay Wright quite well. He donated the entire Mastertouch collection, including all manufacturing equipment, recording masters and the collection of restored pianos and organ, to the Powerhouse Museum in 2005. It was valued at \$350,000. The trigger point to his donation in 2005 was his poor health. But for many years Barclay had clear instructions in his will as to what was to happen to his collection should he die beforehand. Barclay appreciated that accepting a collection of this magnitude and special nature would be onerous and he worded his will so that there were a series of institutions which were to be offered the collection in his order of preference. If the first refused it was to be offered to the second and so on. The steps to the Commonwealth's Cultural Gifts Program include 1. finding a Commonwealth accredited institution under the Program which will accept your gift. Full details of the Program including eligible institutions are on line at [arts.gov.au/cgp](http://arts.gov.au/cgp). 2. Arrange for two independent valuations to be made - the institution you are giving to may be able to arrange this for you. 3. The average between these two valuations is the basis for determining value. 4. This valuation is submitted to the Commonwealth for approval and becomes the basis for a full tax deduction which can be spread over 5 years if necessary to suit your own tax situation.
  - If your gifting body of choice has tax deductibility for donations you may be able to arrange for it to buy your items and for you to donate all or part of the full amount back to the institution as a tax deductible gift. I would urge anyone or organisation using this option to ensure that proper and fair rather than inflated valuations are undertaken and that the process is transparent.

- There are some umbrella tax deductible organisations which can also receive tax deductible gifts of cash and pass them on to the body you have in mind. In my own area in the Southern Highlands of NSW there is a tax deductible foundation which has set up donation accounts for worthwhile projects - in effect it can act as an intermediary between a donor and a beneficiary organisation.

## **What can museums do to encourage donations?**

All museums should have a collection policy, a policy in regard to cash and heritage item donations and clear advice in relation to tax deductibility for cash and non-cash gifts.

This advice should be made clear on museum websites. I regret to say that in preparing this paper I found very few museums that did this.

In relation to tramway museums the COTMA site lists 27 members of which 24 have linked websites. Only 6 had information on donations - Bendigo Tramways has information on cash and non-cash donations and tax deductibility. Brisbane and Perth list collection policies only. Ballarat, San Francisco and Sydney Tramway Museums list tax deductibility for cash donations only.

It is also noted that none of the COTMA member sites include current projects which could be supported by donations.

Providing generic/template advice on this matter to members is something which COTMA might well address.

An example of a website worth looking at is the Coventry Transport Museum in the UK ([www.transport-museum.com](http://www.transport-museum.com)). The Coventry site says in plain English:

*Collecting is the core work we do in museums. New material is being added to the collections all the time, and we are always grateful for offers of new items.*

*All potential acquisitions are carefully considered, to ensure that they meet the criteria of our Collecting Policy. There are many things to consider, such as the condition of the object, its significance to the collection, whether we already have similar objects, and if we have sufficient storage space.*

*The museum will only agree to adding loans to the collection if they are for short term temporary exhibitions, or if the object is of great significance to the collection and the stories the museum is trying to tell.*

*The Museum will purchase significant items, however we have to very carefully consider what we purchase, due to limited budgets. If the cost was beyond our means, but we wished to collect the item, we would apply for external funding to aid us with a purchase.*

*We are currently looking to acquire the following vehicles: Daimler SP250 (Dart) motorcar*

*and Triumph TR3, TR4, TR5, TR6 motorcars*

*If you would like to discuss the possibility of donating an item to, or loaning an item from Coventry Transport Museum, in the first instance please contact us at [collection@transport-museum.co.uk](mailto:collection@transport-museum.co.uk)*

In respect of advising the public of current projects the Auckland Museum of Transport and Technology website in New Zealand is also a good example. ([www.motat.org.nz](http://www.motat.org.nz))

Where a museum does not have tax deductibility for cash donations it should consider doing so. These applications need to be made to the Australian Taxation Office.

In the case of tax deductibility for non-cash donations under the Cultural Gifts Program I mentioned above, institutions are accredited by the Ministry for the Arts in Canberra. Its current 16 page list currently includes 24 transport specific related museums.

Four of these 24 museums relate to trams: three are in Victoria - Ballarat Bendigo Tramways and Portland Cable Trams and one in Launceston, Tasmania. The other non tram museums on the list are: In Victoria there are three air museums at Ballarat, Mentone and Point Cook, a car museum in Portland, an Army Tank Museum in Puckapunyal and a steamship museum in Melbourne . In New South Wales there are three motor museums - Kembla Grange and Binalong Car Museums and the Bus and Truck Museum in Sydney and four air museums - Bankstown, Beacon Hill, Nowra and Williamstown. In Queensland there is the Transport and Technology Centre in Brisbane and four air museums - Archerfield, Oakley, Paisley and Longreach. In South Australia - the Motor Museum at Birdwood. In Tasmania - the Transport Museum in Hobart. In Western Australia - the RAAF Museum in Bullcreek and a motor museum in Whiteman.

### **Final thoughts on gifting**

In relation to gift giving this is a very personal matter but again it makes sense to think about the private assets we have and how they might be used for a wider good both in our lifetime and after we have passed on.

While the Bible tells us "It is more blessed to give than to receive" it is not always easy to be generous. Many of us have worked hard to get to our current position in life and generous giving may not come naturally. And there are always those reservations of how well our gift will be received and respected.

I also understand how it might be difficult for collectors to give heritage items away while they are still alive. If this is the case then perhaps the best options to consider are:

- gifting now but arranging transfer to the museum at a later date; or
- loaning now with a view to a later gift; or

- simply by a bequest in a will.

The important step is to do something and not just leave it up in the air.

If it is comfortable to you, it is definitely worthwhile discussing your thoughts on gifting heritage items with a likely beneficiary body. Apart from any other consideration you are the one who will know most about the items and their value and how they might best be cared for and appreciated. It will also enable you to gauge how acceptable are any conditions you would wish to apply to your gift.

And finally I know its not always comfortable to think of making end of life plans and putting them down on paper but I think you will agree it makes sense - and it makes even more sense to do so while you are still alive to do so!