



# 2009 ANNUAL REPORT



<b>Board</b>	President The Hon. Justice George Palmer AM Vice President The Hon. Peter Heerey QC Honorary Treasurer Steven Miller
<b>Directors</b>	Megan Brownlow Peter Griffin Professor Jill McKeough Andrew Wiseman
<b>Company Secretary</b>	Robyn Ayres
<b>Registered Office</b>	The Gunnery 43-51 Cowper Wharf Road Woolloomooloo NSW 2011
<b>Accountants</b>	Steven J Miller & Co PO Box 297 Leichhardt NSW 2040
<b>Auditors</b>	WalterTurnbull Level 17 55 Clarence Street Sydney NSW 2000



## ARTS LAW CENTRE OF AUSTRALIA

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The Arts Law Centre of Australia (Arts Law) is the national community legal centre for the arts. Arts Law is a not for profit company limited by guarantee.

Arts Law was established in 1983 with the support of the Australia Council for the Arts.

Arts Law provides legal advice and information on a wide range of arts related legal and business matters including contracts, copyright, business structures, defamation, insurance, employment and taxation to artists and arts organisations across all art forms.

The majority of Arts Law subscribers are individual arts practitioners - including visual artists, authors, new media artists, performers, musicians, composers, writers, film and documentary makers, choreographers, graphic designers and set designers. Arts organisations are also important clients of Arts Law.



## MISSION

Arts Law envisages an arts community which *understands their legal rights*, has *sufficient business and legal skills to achieve financial security*, and carries out their arts practice in a *non-exploitative and culturally aware environment*. Arts Law will continue to provide *low cost, practical, specialist legal advice and services (including advocacy, publications and education)* to equip artists and the cultural sector to achieve this vision.

# 1 Legal Advice, Resources and Referrals

To provide accessible, timely, high quality and practical legal advice to artists and arts organisations. This will include well-targeted and worthwhile professional development services, resource materials and referrals.



*Kidogo Arthouse ©Arts Law Centre of Australia, 2009. Photo by Brad Webb.*

# 2 Advocacy and Law Reform

To provide targeted, quality advocacy on law and policy reform, to assist artists, the Government and the public more broadly to understand both the needs and value of the creative sector.



*AITB trainee lawyer, Trudie Broderick participating in panel discussion at Garma Festival © Arts Law Centre of Australia, 2009. Photo by Rebecca Laubi.*

# 3

## Artists in the Black

Provide Indigenous artists, organisations and communities access to culturally appropriate legal resources (including advice, information, education and advocacy services) to support and strengthen the Indigenous arts sector in order for Indigenous creators to achieve professional excellence and a sustainable income in a nonexploitative environment.

## 4

## Communications and Marketing

To position Arts Law as a valued national legal resource for the cultural sector.

## 5

## Human and Physical Resources

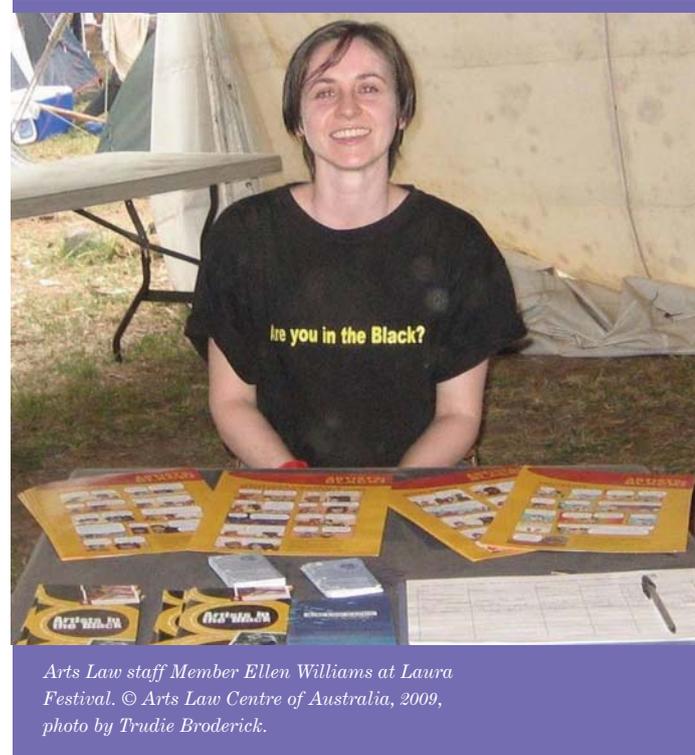
To sustain an efficient team committed to the mission and goals of Arts Law through a collaborative working environment and to maintain the office, furniture and equipment in order to meet the needs of the organisation.

## 6

## Governance

To develop and maintain an experienced, committed and effective board in order to ensure that Arts Law complies with all governance requirements and maximises the ability of Arts Law to generate income.

Arts Law's governance should also address the relationship with the Artists in the Black service and Reference Group.



*Arts Law staff Member Ellen Williams at Laura Festival. © Arts Law Centre of Australia, 2009, photo by Trudie Broderick.*

# President's Report 2009

## THE HON. JUSTICE GEORGE PALMER AM



Looking back at the events of 2009, certain challenges and successes come to mind. It is apparent in the current funding climate that organisations such as Arts Law struggle to meet technological demands as the stakeholder and client's use of the internet is dramatically on the rise. Simultaneously the ever-increasing number of clients requiring Arts Law's services makes the ability to reach each and every client quickly and efficiently more difficult. Fortunately forces that help to balance the scales are the quality and dedication of the Arts Law staff and the selfless pro bono support they receive from lawyers all over Australia.

As access to the internet continues to increase for artists and arts organisations, Arts Law's online education, resources and up to date legal information are essential in providing these quality services. Clients are relying more on what can be found from the comfort of their computer. They are solving simpler problems themselves then approaching Arts Law for the more intricate and complicated issues. As a result, the average client is asking more of Arts Law's legal services. Requests for educational sessions are on the rise from all regions across Australia. Telephone advices are more complex and individual clients returning to Arts Law for more than one issue has escalated. Although the demand on their resources and time has sharply risen, the Arts Law staff exceeds the obligations placed upon them whilst maintaining the highest standard of quality. I would like to recognise the staff for this achievement. Their sense of loyalty and professionalism is unsurpassed.

The continuous support from the legal community is astounding. The outreach from small and large law firms across the country to assist with telephone advice, casework, and education amongst others illustrates the close relationship between these excellent firms and the Arts Law staff. I wish to thank all the legal professionals and firms for this support.

A strong and responsive Board is essential to any organisation and I am privileged to work with such a group of people. I would like to extend my appreciation for the time and commitment given by this volunteer Board. Their insight and enthusiasm continues to infuse Arts Law with fresh ideas and it is my pleasure to work with them.

No organization can truly reach its potential without strong and visionary leadership. The accomplishments of Arts Law under the constraints of the current funding situation are a testament to the guidance and unending dedication of the Executive Director Robyn Ayres. Her enthusiasm and determination ensures the needed focus and accomplishments in the upcoming year. As Arts Law faces the challenges that lie ahead, the successes will be measured through the artists and arts organisations that continue to bring their creativity and uniqueness to all of us.

# Executive Director's Report 2009

## ROBYN AYRES



In late 2009 the Arts Law Centre of Australia (Arts Law) was evaluated by the Australia Council using independent reviewers, Judith Stubbs and Assoc. This was in response to Arts Law's requests for an increase in funding given the demands for our service from the arts. Analysis showed that we are only able to deal with one third of known need without any increase in funding levels. Arts Law has found that the type of advice we are providing is increasingly complex, the documents needing a lawyer's review are also more numerous and despite great pro bono support from the legal community we cannot keep up with demand. The evaluation was extremely positive, finding no duplication of Arts Law's services and that our work was consistent with artists' legal needs. The report recommended the development of a more sustainable funding base through State and Federal arts agencies and that the Australia Council take a lead role in developing a more equitable funding model for a national organisation such as Arts Law.

The context is that after consistent growth Arts Law sustained a significant deficit in 2009, primarily due to funding levels, demands for higher service levels and our reluctance to reduce programs, especially the outreach work which is crucial to the success of Artists in the Black. This has also meant that Arts Law is unable to upgrade our IT infrastructure, including our database and website, despite this being much needed in the interests of efficiency and artists' accessibility.

Arts Law continues to benefit greatly from the wonderful pro bono support we receive from the legal community. In 2009 this was no different with 240 lawyers on our volunteer panel. This year we had more firms assist us with the delivery of our legal advice services with Allens Arthur Robinson and Clayton Utz joining DLA Phillips Fox in providing this type of support. Arts Law recognises the pro bono efforts of individual lawyers through our pro bono print commission award which is presented to 29 outstanding lawyers. The 2009 recipients received a beautiful print, entitled *Safe Haven*, by Queensland artist Gwenn Tasker.

Arts Law also provides a volunteering and placement program for law students and graduate lawyers. In 2009, there were 14 law students/graduates who generally came in one day a week for at least 6 months. As our reputation spreads internationally we are increasingly being asked to host international interns, and in 2009 we were assisted by graduands from the Sorbonne in Paris, France and from Harvard in the USA.

The Guardian Angels program grew in 2009 so that by December we had 14 Guardian Angels. These are our protectors of the arts who provide a significant donation (\$1000) which enables Arts Law to do more, particularly in relation to the Artists in the Black (AITB) service and the advocacy work.

# Executive Director's Report 2009 continued

Artists in the Black saw a few changes in 2009, with the much loved Indigenous lawyer, Trish Adjei going to National Indigenous TV (NITV) and Kyas Sheriff going on maternity leave to have twins! They were replaced by Trudie Broderick, a trainee solicitor and Brad Webb, the Indigenous Information Liaison Officer who took up their new roles with great enthusiasm. Arts Law's expertise in relation to Aboriginal and Torres Strait Islander artists has been recognized by the Government which announced that Arts Law would be developing the Indigenous Intellectual Property Toolkit, a project of the Cultural Ministers Council.

Through Artists in the Black, Arts Law participated again at the World Intellectual Property Organisation's Intergovernmental Committee which is looking at the protection of Traditional Knowledge and Traditional Cultural Expressions at an international level. The progress of this committee has been frustratingly slow and the mandate has only been renewed for a further 2 years. Arts Law is one of the few Australian non- Governmental organisations which provide an Australian Indigenous perspective at this international forum. Arts Law is also keen for the Australian Government to address the issue of the lack of legal protection available for many forms of Indigenous intellectual property.

Arts Law was also active in the resale rights debate in 2009, finally seeing resale rights for Australian artists introduced in November 2009. Whilst the scheme may not be optimal with the first resale of existing works being excluded from the scheme, over time it will provide an important income stream for artists. We were proud to have worked in an effective and collaborative way with partner organisations Viscopy, NAVA, CAL, CISAC and the Australian Copyright Council to achieve this outcome for Australia's visual artists.

Arts Law reduced our level of education work in 2009 although still delivered 68 presentations to 2288 participants in 35 different geographical locations. As a way of maximizing our very limited resources we also decided to participate in festivals/art fairs where there were concentrations of artists.

Whilst 2009 was a more difficult year for Arts Law with inadequate funding levels and the loss of valued staff including Serena Armstrong, one of our lawyers, we achieved a lot and continue to serve the most wonderfully diverse group of artists and their communities and organisations across Australia. I am very proud to work with a wonderful staff comprised of dedicated and professional people who are passionate about the arts. Arts Law is also very privileged to have an exceptional Board of Directors led by Justice George Palmer who provide their significant expertise to ensuring Arts Law does the best possible job.

Arts Law gratefully acknowledges the financial assistance and investment of:

The Commonwealth Government through the Australia Council, for the Arts its arts funding and advisory body



The Department of the Environment, Water, Heritage and the Arts



The New South Wales Government through Arts NSW



Screen Australia



Arts Victoria



Government of Western Australia, Department of Culture and the Arts



Arts SA



Phonographic Performers Company of Australia for funding support



Acknowledgement and thanks must go to the following people, organisations and law firms for their significant contribution to Arts Law during the year:

WalterTurnbull for pro bono accounting advice and assistance to Arts Law's legal staff.



Steven J Miller & Co for pro bono advice and the continued provision of assistance to Arts Law legal staff.



Lexis Nexis for sponsoring Arts Law's subscription to their online publications.



Victoria Law Foundation for support of AITB education program in regional Victoria.



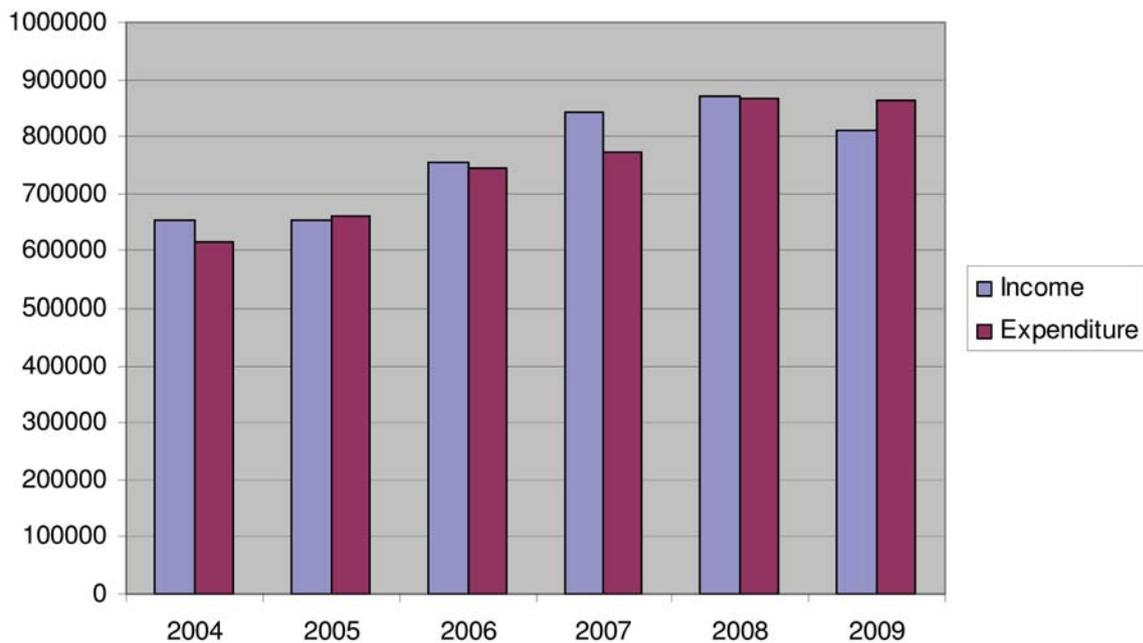
NSW Law and Justice Foundation for support of AITB radio recordings.



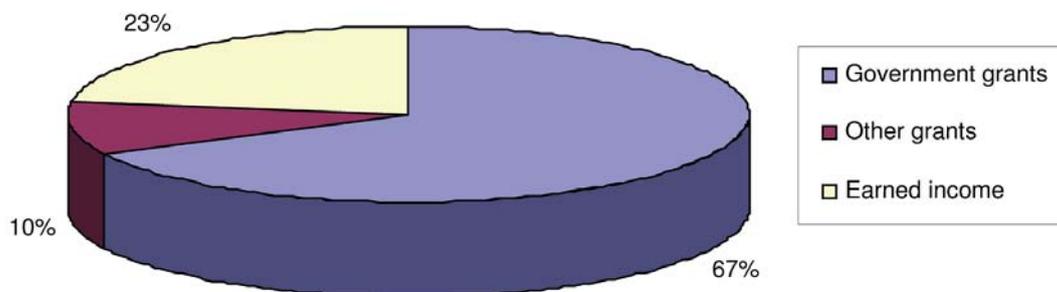
Special thanks to the many individuals, organisations and law firms who have made a significant contribution to Arts Law during the year, many of whom are listed later in this report.

- > *1764 telephone legal advices*
- > **370 face-to-face document review session consultations**
- > *240 pro bono lawyers willing to provide advice and other assistance to clients of the Arts Law*
- > **\$925,000 in pro bono assistance provided to Arts Law's clients**
- > *437 legal advice services to Indigenous clients (including casework)*
- > **68 professional development presentations**
- > *2288 artists and arts workers received professional development*
- > **425 Indigenous participants attended educational workshops**
- > *733 referrals to lawyers, arts organisations, insurers and Government agencies*
- > **5,155 artists and arts workers were assisted by Arts Law**

**Income and Expenditure 2004-2009**



**Sources of Income 2009**



Executive Director \_\_\_\_\_ Robyn Ayres

Senior Solicitors (Part time) \_\_\_\_\_ Delwyn Everard  
Rebecca Laubi

Solicitor \_\_\_\_\_ Suzanne Derry

Solicitor \_\_\_\_\_ Serena Armstrong (until 27 March)

Solicitor \_\_\_\_\_ Jo Teng (commencing 20 April)

Indigenous Solicitor \_\_\_\_\_ Patricia Adjei (until 27 February)

Indigenous Legal Services Officer \_\_\_\_\_ Trudie Broderick (commencing 25 May)

Administration Manager (Part time) \_\_\_\_\_ Lynne Guaglione

Financial Manager (Part time) \_\_\_\_\_ Mary Egan

Administrative Officer \_\_\_\_\_ Ellen Williams

Administrative Officer \_\_\_\_\_ Caroline Lai (until 26 March)

Administrative Officer \_\_\_\_\_ Fiona Skelton (commencing 5 May)

Administrative Assistant \_\_\_\_\_ Gemma Williams (commencing 16 Nov)

Aboriginal Information/Liaison Officer \_\_\_\_\_ Brad Webb (commencing 26 August)



Patrons of Arts Law are eminent persons in the law and the arts, and reflect the standing Arts Law enjoys in the community.

### CURRENT PATRONS ARE:

Robyn Archer AO  
Jan Chapman AO  
Deborah Cheetham  
Ian David  
David Gulpilil AM  
Roger Knox  
Frank Moorhouse AM  
Professor Sally Morgan  
Margaret Olley AC  
David Page  
Rachel Perkins  
Peter Sculthorpe AO  
William Yang

The Hon David Angel QC  
The Hon Justice Terence Buddin  
Julian Burnside AO QC  
The Hon Jerrold Cripps QC  
The Hon Elizabeth Evatt AC  
The Hon Justice Malcolm Gray RFD  
The Hon Michael Kirby AC CMG  
The Hon David Levine AO RFD QC  
The Hon Justice John Mansfield AM  
The Hon Jane Mathews AO  
Shane Simpson  
The Hon Antony Whitlam QC

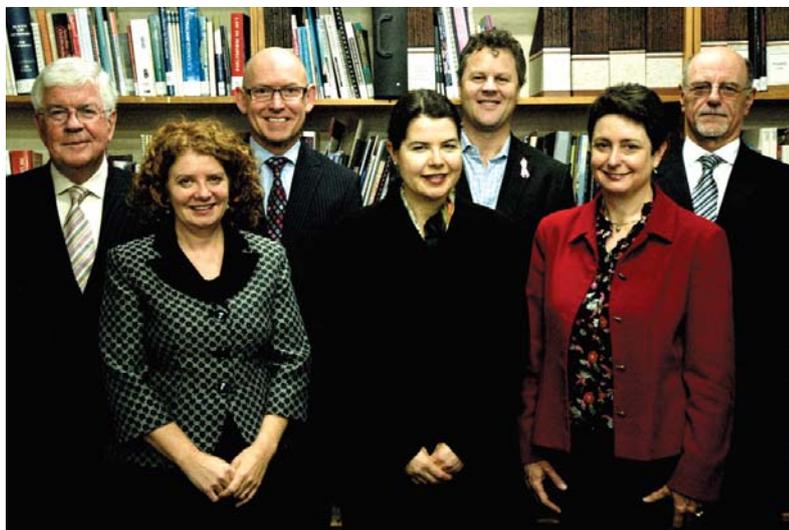
### GUARDIAN ANGELS 2009

Sonia Borella  
Megan Brownlow  
Virginia Gordon  
Holding Redlich  
The Hon Peter Heerey QC  
The Hon David Levine AO RFD QC  
David Marr  
Professor Jill McKeough

Mary Jane McKerihan  
The Hon Justice George Palmer AM  
Shane Simpson  
Anisha Travis  
Jim Leslie AO and Alison Leslie  
Shauna Jarrett

### VICTORIA ADVISORY COMMITTEE 2009

The Hon Peter Heerey QC, Peter Chalk, Stephen Stern, Kate Beattie, Prof Andrew Kenyon



ALCA Board Members

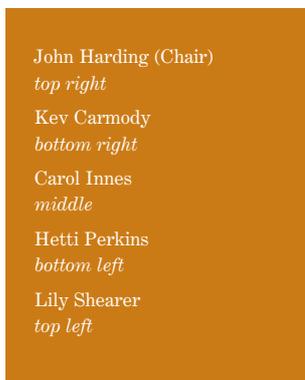
Top row from left to right:  
The Hon Peter Heerey QC,  
Steven Miller, Andrew Wiseman,  
The Hon Justice George Palmer.  
Bottom row from left to right:  
Executive Director Robyn Ayres,  
Megan Brownlow,  
Prof Jill McKeough (not shown)  
Peter Griffin.

© Arts Law Centre of Australia 2009,  
photo by Jo Teng.

# ARTISTS IN THE BLACK REFERENCE GROUP

## THE CURRENT MEMBERS OF THE GROUP ARE:

John Harding (Chair)  
 Kev Carmody  
 Kevin Dolman  
 Carol Innes  
 Hetti Perkins  
 Lily Shearer



John Harding (Chair)  
*top right*

Kev Carmody  
*bottom right*

Carol Innes  
*middle*

Hetti Perkins  
*bottom left*

Lily Shearer  
*top left*



# LEGAL ADVICE, REFERRAL AND MEDIATION SERVICES

The focus of Arts Law's work is to ensure that Australia's artists and arts organisations have access to practical, specialist legal services and resources. This will assist them to be fairly rewarded for their creative endeavours and protect against exploitation. We encourage artists and arts organisations to seek assistance sooner rather than later so that problems are less likely to arise as their work develops.

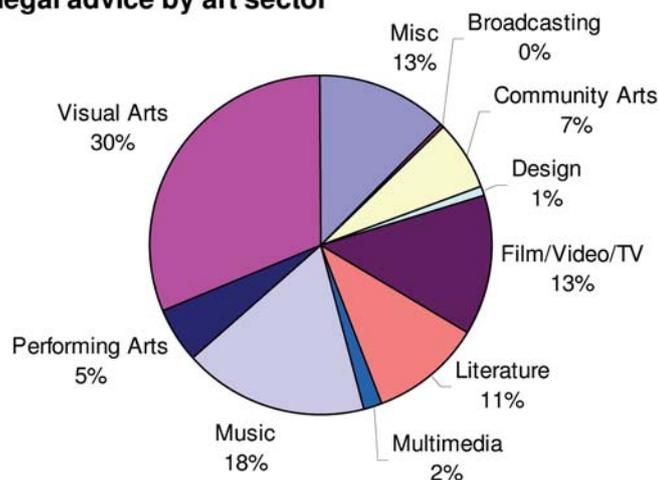
Arts Law provides legal advice on a wide range of legal and business issues affecting artists and the cultural sector including copyright, contract, moral rights, performers' rights, trade marks, trade practices, confidentiality, employment, business structures, privacy, insurance, censorship and taxation. We do this through our free national telephone legal advice service to the arts community and, for Arts Law subscribers, extended legal advice service, national face-to-face legal advice Document Review Services and pro bono referrals. Arts Law also provides referrals to our panel of mediators on a fee for service basis.

In 2009 the number of occasions in which telephone advice was provided was 1764. The complexity of each advice has increased significantly.

**TABLE 1: TELEPHONE ADVICE BY ARTS SECTOR**

TELEPHONE ADVICE	2009	2008
Film / Video/TV/Broadcasting	190	381
Community Arts	102	119
Literature	155	220
Performing Arts	79	156
Music	263	497
Multi Media	23	35
Visual Arts and Crafts	480	765
Design	13	40
Miscellaneous	459	
<b>TOTAL</b>	<b>1764</b>	<b>2213</b>

**2009 legal advice by art sector**



## CASE STUDY

## MICHAEL MESZAROS

Michael Meszaros is the sculptor who created the well-known piece 'Distant Conversations', which for 17 years was installed in the foyer of the Telstra Building in Melbourne and generally considered one of the top ten contemporary sculptures in the Melbourne CBD. As a former member of the Visual Arts Board of the Australia Council, Michael was also instrumental in the original push for recognition of artists' moral rights, which were introduced as legislation in 2000. In October 2009 Michael was contacted by Telstra who informed him that they intended on remodelling the foyer to install a Telstra shop and remove 'Distant Conversations', something that would have likely required the sculpture – valued at around \$1 million – to be taken apart. To find out what could be done to save his work, Michael turned to Arts Law.

As part of Arts Law's document review service, we arranged for him to have an advice session with Melbourne barrister and solicitor Dr. Mark Williams who in the 1990s had been heavily involved in the framing of Australia's moral rights legislation along with Arts Law. Mark provided close to four hours of volunteer legal advice for Michael and acted in the matter following a follow-up Arts Law referral. Telstra delayed the dismantling of the sculpture while negotiations took place to find an outcome that would be acceptable to all. Much to Michael's satisfaction, in the end the sculpture was acquired by Grollo Australia who agreed to fund its removal, storage, and eventual relocation. The removal took place under Michael's supervision and the sculpture has been carefully stored awaiting future reinstallation at a new venue. This outcome received coverage in *The Australian* on 5 December 2009 which described it as a 'moral victory' for the artist. It is a measure of some of the strengths and limitations of the current moral rights regime with regard to the protection of site-specific sculpture in this country.



*The whole work is called 'Distant Conversations'.*

*Figures (above) - 'Footpath figures looking in at interior sculptures'*

*Wall sculpture (left) - 'Wall sculpture integrated with second tapestry' (image cropped)*

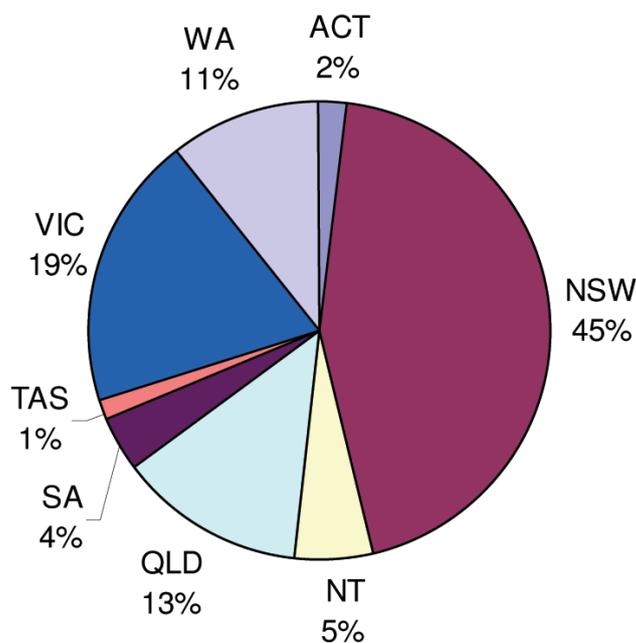
*Floor sculpture (right) - 'Floor sculpture with related tapestry behind' (image cropped)*

©Michael Meszaros, 2009

TABLE 2: TELEPHONE ADVICE BY STATE

TELEPHONE ADVICE	2009	2008
ACT	28	34
NSW	779	1082
NT	91	103
OS	32	21
QLD	227	152
SA	67	80
TAS	20	20
VIC	337	450
WA	183	271
<b>TOTAL</b>	<b>1764</b>	<b>2213</b>

2009 Legal Advice by State



## RANGE OF PROBLEMS

Arts Law deals with a significant number of legal problems presented by each caller. In 2009, of the 1764 legal advices provided the solicitors dealt with 2030 different legal problems. Table 3 sets out the number and range of legal problems dealt with in 2009.

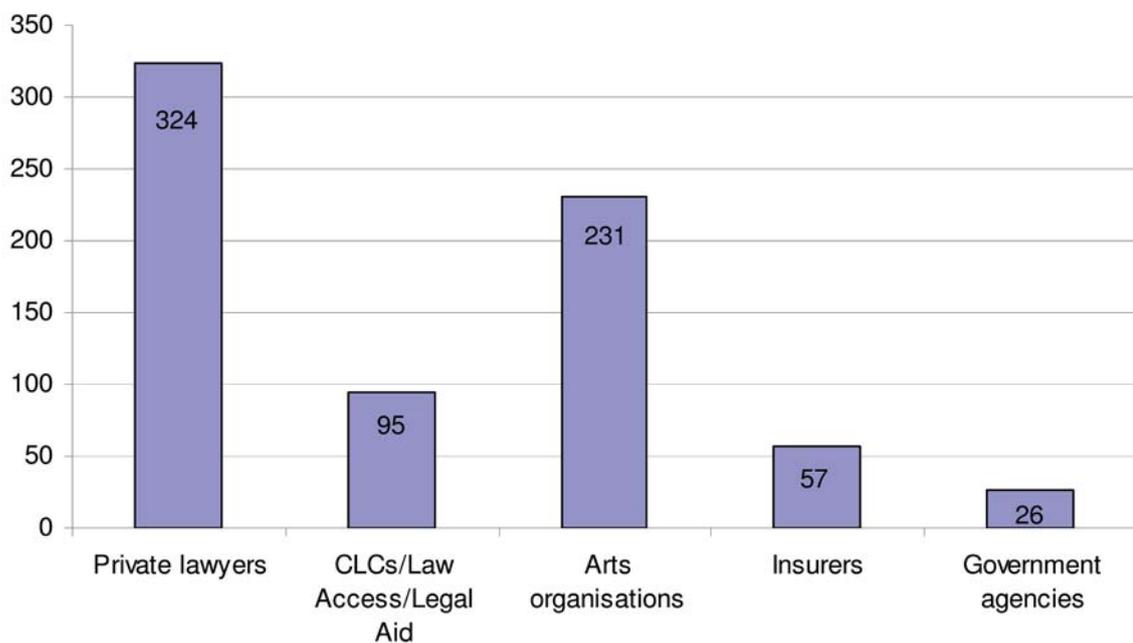
**TABLE 3: LEGAL ADVICE BY CATEGORY**

DESCRIPTION	TOTALS
Administrative Law	2
Agency	3
Bailment	8
Business Name	18
Business Structure incl. assns, charities, corps	42
Business Structure: Partnership	12
Censorship & Obscenity	14
Character Merchandising	3
Commercial Lease	2
Confidentiality	22
Contract: General	249
Contract: Infringement	40
Contract: Review	215
Copyright: Collecting Societies	50
Copyright: General	408
Copyright: Infringement	154
Copyright: Licensing	187
Debt	31
Defamation	38
Employment incl. discrim, super, workers comp	27
Estate Planning/Wills	69
Funding incl. government, private	1
ICIP	15
Insolvency	2
Insurance	36
IP: Design Registration	9
IP: Trade Mark	37
Local Government	2
Mediation	13
Moral Rights	139
Other	63
Performers' Rights	17
Other	63
Personal Property	5
PPCA	2
Privacy	16
Remedies	6
Tax incl. GST, income, sales, stamp duty	11
Torts incl. negligence, trespass	5
Trade Practices & Passing Off incl. misleading	42
Wills & Probate	15
<b>TOTAL</b>	<b>2030</b>

## REFERRALS

Arts Law makes referrals to a range of organisations eg an insurer, rather than legal assistance due to the nature of the request. In 2009 Arts Law made 733 referrals.

**2009 Referrals by Arts Law**



## DOCUMENT REVIEW SERVICES

Subscribers to Arts Law can attend a document review for face-to-face advice, or telephone consultations for up to two hours with experienced specialist lawyers who are on Arts Law's panel. Subscribers are entitled to up to 6 sessions per year. Lawyers from large corporate and boutique firms, as well as government and in-house lawyers, volunteer for the national Document Review Service panel. The number of document reviews was 370 (2009) compared to 482 (2008). The decrease was due to lack of funding for the Indigenous Wills Project.

The face-to-face Document Review Service operates in Sydney, Melbourne, Adelaide, Brisbane, Hobart, Perth, Darwin, and Canberra. Subscribers in other cities and regional areas can access extended telephone advice with lawyers on our panel.

## RAW LAW-YOUR ART. Your rights

Arts Access Victoria provides access, engagement and professional development in the arts and cultural life across Victoria for people with a disability. It sought Arts Law's assistance to develop a basic legal resource to explain to people with a disability, in particular an intellectual disability, what their rights are as artists.

The work carried out by Arts Access and Arts Law, resulting in a booklet and a DVD, was directed to explaining complex legal concepts (such as copyright, moral rights, contracts, issues related to the use of the internet in relation to artistic ventures) in a simple and succinct manner. For Arts Law, the challenge of this project was to ensure that the resource remained legally relevant and accurate as well as accessible. In particular, it had to avoid overwhelming the user by being too detailed.

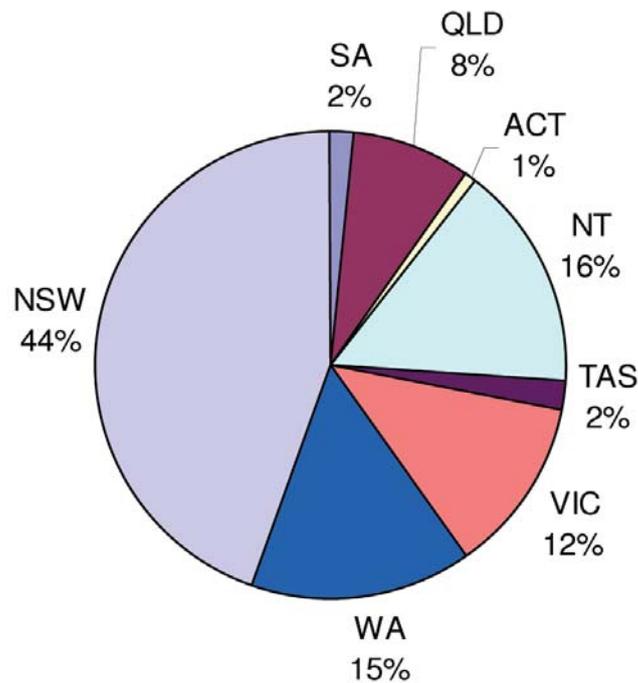
Apart from being an invaluable resource for the people for whom it is intended, Raw Law should constitute a good example of how lawyers can communicate legal information, which is difficult to understand and process, in an accessible manner.



**ARTS ACCESS VICTORIA**

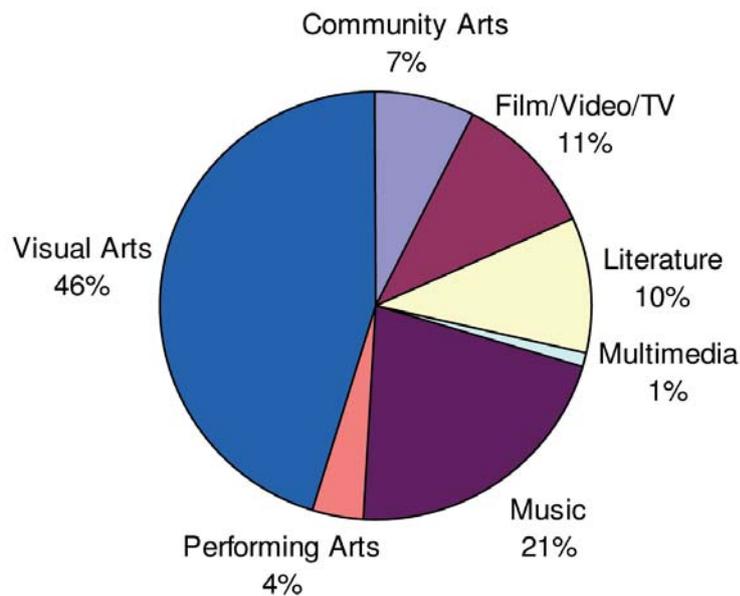
**TABLE 4: DOCUMENT REVIEW SERVICE BY STATE**

DOCUMENT REVIEW SESSIONS	2009	2008
SA	6	10
QLD	30	14
ACT	3	4
NT	58	51
TAS	7	0
VIC	45	69
WA	56	112
NSW	165	222
<b>TOTAL</b>	<b>370</b>	<b>482</b>

**2009 Document Review Services**

**TABLE 5: DOCUMENT REVIEW SERVICE BY ARTS SECTOR**

LEGAL ADVICE NIGHTS	2009	2008
Film/Video/TV	39	54
Community Arts	27	22
Design	0	5
Literature	38	38
Performing Arts	14	29
Music	77	112
Multi Media	4	8
Visual Arts and Crafts	166	186
Miscellaneous	5	28
<b>TOTAL</b>	<b>370</b>	<b>482</b>

**2009 Document Review Services by Art Sector**

To access the assistance available through the Document Review Service individuals or organisations must become Arts Law subscribers. Subscribers are also entitled to discounts on all of Arts Law's publications and receive the quarterly newsletter, *ART+law*.

**TABLE 6: ALCA SUBSCRIBERS BY STATE & TYPE**

STATE	TOTALS	COMMERCIAL	INDIVIDUAL	NON PROFIT	LEGAL OTHER
ACT	11	1	7	3	0
NSW	208	10	170	21	7
NT	18	0	11	7	0
OS	16	1	14	0	1
QLD	22	0	19	2	1
SA	27	1	21	5	0
TAS	7	1	3	3	0
VIC	88	3	65	16	4
WA	38	2	28	8	0
<b>TOTALS</b>	<b>435</b>	<b>19</b>	<b>338</b>	<b>65</b>	<b>13</b>

The majority of Arts Law subscribers are individual arts practitioners – including visual artists, new media artists, performers, musicians, composers, writers, choreographers, graphic designers, film and documentary makers, and set designers.

## CASE STUDY

### BREAKING UP IS HARD TO DO...

Arts Law recently advised a band on what the rights status of a number of their songs was, now that they were no longer a team. One of the members of the band had decided to leave the band. Upon leaving, the member stated that he did not want the band to use any of the songs he had contributed to and wanted to be removed from all the promotional materials the band had spent significant funds creating.

We advised the client about copyright and the ownership of rights in musical works, lyrics and sound recordings under the Copyright Act. We also provided some advice about the sort of letter the band could send the leaving member, and suggested the use of a partnership agreement in future to outline what the rights of the various band members are upon leaving the band. We also provided advice on how mediation might be useful in dealing with the dispute in relation to the works.

# LEGAL INFORMATION AND PUBLICATIONS

## PUBLICATIONS

Arts Law produces a range of publications each year including a quarterly newsletter *ART+law*, information sheets, checklists and guides, sample contracts and seminar papers. In addition, Arts Law contributes to a range of external publications.

## INFORMATION SHEETS

Arts Law's information sheets are made available on the website for no cost, enabling arts practitioners throughout Australia to easily access up-to-date information. The range of information sheets in 2009 covers 38 topics. These can be accessed at [www.artslaw.com.au/information](http://www.artslaw.com.au/information).

## CHECKLISTS AND GUIDES

In addition the following more comprehensive checklists and guides are available free to Arts Law subscribers:

- Artist-Gallery Checklist
- Business Partnership Checklist
- Displaying Visual Arts on the Internet
- Live Music Performance: Booking gigs
- Music Management Checklist
- Music Publishing Checklist
- Music Recording Agreements Guide
- Organising a Festival
- Short Film Competition – Producer's guide
- Sponsorship Agreements Guide

## SAMPLE CONTRACTS

Arts Law also produces a range of sample contracts, which come with explanatory notes. There are currently 40 sample agreements available, covering a range of arts sectors including a suite of agreements for the visual arts and crafts, for low budget film/video, for community broadcasting and for music. These are updated on an ongoing basis.

In 2009 Arts Law was commissioned by Arts NSW to prepare a suite of agreements for the development of new creative hubs following the success of the Renew Newcastle project. Arts Law was generously assisted by law firm, Sparke Helmore, which had already developed some precedent documents for the Renew Newcastle project. These documents will be freely available through Arts Law's website and linked to the NSW Empty Spaces website at UTS.

Arts Law produces a quarterly newsletter providing information on current legal issues affecting arts practitioners.

In 2009 ART+*law* covered topics including:

- Protocols for working with children in art (Serena Armstrong and Suzanne Derry)
- Getting it in Writing (Darren Sanicki)
- Fan-Works, Copyright and Moral Rights (Jo Teng)
- Artists in the Black-Code of Conduct for Indigenous Art (Delwyn Everard)
- Defending Your Film Online (James Heller)
- Sellers of fake Indigenous art stopped (Amity Jarvis)
- High Court gives green light to entrepreneurial charities (Alison Ewart and Nicolas Patrick)
- Sports Illustrated-A cautionary trade marks story (Robyn Ayres)
- Up cycling in fashion and staying legal (Sharmilla Shearing)
- We'll Be Watching You: NSWLRC Recommends Statutory Tort of Privacy (Katherine Giles)
- Defamation goes Digital (Cass Matthews)

Arts Law subsequently places many of the articles from ART+*law* on its website.

## EXTERNAL PUBLICATIONS

Arts Law regularly contributes articles to various legal and arts periodicals.

Arts Law's website [www.artslaw.com.au](http://www.artslaw.com.au) is a well-utilised resource and information service, complementing our legal advice and professional development activities. The website contains the range of Arts Law's information sheets, as well as articles which cover the different art sectors.

In 2009, Arts Law had over 267,639 unique visits to the website, of which over 80% were new visitors.

**TABLE 7: WEBSITE STATISTICS**

2009	Quarterly Visits	Number of Page views	Percentage of New Visits
January - March	66,906	134,201	82.76%
April - June	66,889	136,785	84.65%
July - September	67,527	137,919	82.32%
October - December	66,317	127,901	81.33%
<b>TOTAL</b>	<b>267,639</b>	<b>536,806</b>	<b>N/A</b>

## PROFESSIONAL DEVELOPMENT PROGRAM

In 2009 Arts Law continued its program of lectures, workshops and seminars on legal issues affecting artists and arts organisations. The primary aim of this program is to increase awareness and understanding of the basic legal and business issues affecting the arts community. In doing so we aim to reduce the need for legal advice on commonplace issues eg "What is copyright?" and to focus on delivering legal advice to artists with more complex problems. Overall there is evidence that this strategy has been very successful.

In 2009 Arts Law reached over 2288 creative people around Australia, including 425 Indigenous participants. We visited 35 different geographical locations, provided 68 presentations, of which 26 were for Indigenous artists. Only one Arts Law week was held in Perth due to budgetary constraints. Much of this work is delivered with the assistance of other organisations, which help with promotion to their target audiences. Most were provided for free or low cost.

Arts Law continued to run its seminar and lecture program, presenting at a range of universities and art schools during the year. Lectures covered topics such as copyright, contracts, moral rights, design law and online issues. Most of these lectures were provided on a fee-paying basis.

# ADVOCACY AND LAW REFORM

In 2009, the advocacy work focussed to some extent in ensuring the Resale Rights legislation was as good as it could be for artists. The *Resale Royalty Right for Visual Artists Act* was passed in November 2009 after 20 years of campaigning by organisations such as Arts Law, NAVA and Australian Copyright Council. Arts Law was also active in censorship and privacy issues, Indigenous Cultural and Intellectual Property (ICIP) as well as other issues relevant to Aboriginal and Torres Strait Islander artists.

## HOW WE WORK

Arts Law seeks to have input into law and policy debates through a variety of strategies. These include providing submissions, writing articles, commenting in the media, working in partnership with people and organisations with similar aims, meeting with politicians and Government staff, participating in public hearings and encouraging and assisting artists and arts organisations to also participate in the process.

## ISSUES ON WHICH WE WORKED

### 1. Protection of Indigenous Cultural Heritage

- Throughout the year Arts Law provided feedback to the Australia Council on the Indigenous Australian Art Commercial Code of Conduct. The Australia Council took over responsibility for finalising the work began by NAVA on this important initiative. Arts Law provided detailed submissions on the Code and participated in the consultative forums.
- In 2009 Indigenous Legal Services Officer, Trudie Broderick and Senior Solicitor, Rebecca Laubi attended the 15th session of the Intergovernmental Committee of the World Intellectual Property Organisation (WIPO) in Geneva, which is examining the need for international protection of Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources. (See AITB section below).
- Arts Law provided a submission in response to Terri Janke's *Beyond Guarding Ground* and called on the Minister for Arts and the Attorney General to develop a better system for the protection of ICIP in Australia.

### 2. Resale rights

In 2009 Arts Law was very pleased that in November 2009 the Government finally passed the *Resale Royalty Right for Visual Artists Act 2009*. Whilst the Act retained the problematic provision that the resale right is not payable on the first resale of works in existence when the Act commenced, the Act is still a significant achievement for Australian visual artists. Arts Law is very proud of the work carried out in a collaborative way by the Coalition for an Australian Resale Right (CARR)<sup>1</sup> to provide an effective voice for the arts community.

### 3. Censorship Issues

In 2009, the Australia Council's protocols on working with children became operative. Throughout the year Arts Law has monitored the impact of the protocols and we wrote about the issue in *Art+Law* (March 2009) and *Art Monthly*. We found the protocols have had a significant impact on arts organisations which are required to have work classified by the Office of Film and Literature Classification where, but for the protocols there would be no such requirement under the laws. When the Protocols are reviewed in 2010, Arts Law will continue to have input into this process.

<sup>1</sup> CARR is comprised of the following 6 organisations:- Arts Law, Australian Copyright Council, Copyright Agency Limited (CAL), Viscopy, National Association for Visual Arts (NAVA), CISAC (International Confederation of Authors and Composers)

# ADVOCACY AND LAW REFORM

## 4. Privacy and Freedom of Expression

In 2009, the NSW Law Reform Commission recommended the introduction of a statutory cause of action for the invasion of privacy. This follows on from a similar recommendation made by the Australian Law Reform Commission in 2008. Arts Law has provided input into both inquiries as it is not clear how the right to freedom of expression is to be balanced against any new rights to privacy. This is particularly the case given there is no legislated protection for freedom of expression in Australia.

Arts Law has therefore argued for the introduction of Human Rights legislation and made submissions to the federal Government's national consultation on human rights. Arts Law has submitted that the following rights are important to the arts community:

- right to freedom of expression generally and artistic expression specifically ;
- right to protection of Indigenous Cultural and Intellectual Property (ICIP); and
- rights of access to legal system, information and assistance for artists, including those who are Indigenous, live remotely, are disabled, or are culturally and linguistically diverse.

## 5. Issues for People with Disabilities

In 2009 Arts Law also worked on two important projects that aim to increase access to the arts and the law for people with disabilities. Removing the Obstacles is a project in partnership with Accessible Arts NSW, Arts Access Australia and UTS Shopfront which has examined the issues with heritage legislation vis-à-vis discrimination laws and their impact on people with disabilities accessing the arts. The other exciting initiative is the Raw Law project of Arts Access Victoria with whom we are working to develop accessible Arts Law information for people with a disability.



*Dancers at the Laura Festival. © Arts Law Centre of Australia, 2009. Photo by Ellen Williams.*

In 2009 Arts Law delivered its 6th year of targeted legal services to Indigenous artists and their organisations through the *Artists in the Black* service (AITB). The service plays an important role in providing legal advice; information and education to Aboriginal artists, communities and their organisations that would otherwise experience difficulties in accessing culturally sensitive legal advice services and information.

During 2009 there was a change to the staffing of AITB with lawyer Trish Adjei moving to NITV and Kyas Sherriff going on maternity leave to have twin boys. Trudie Broderick and Brad Webb joined AITB in the positions of trainee lawyer and Indigenous Information Liaison Officer respectively and enthusiastically took up the challenge to deliver effective services to Australia's indigenous arts communities.

**The AITB service provides:**

- Direct legal advice to individual Indigenous artists on their arts law problems;
- Information and education about arts law issues to ensure Indigenous artists are informed about their legal rights;
- Casework services in matters identified to have a public interest component; and
- Advocacy on the need for Australian laws to provide better protection of Indigenous cultural heritage.

**LEGAL SERVICE PROVISION**

The AITB staff work closely with the other Arts Law staff to provide legal advice services to the Indigenous community. In 2009 AITB provided 281 legal advices, 126 Document Review Services and provided casework services in 28 matters. To maintain the level of service delivery entailed the whole Arts Law team working to support the Indigenous staff and clients.

*Casework assistance*

Unique to AITB is the ability to provide limited casework to clients where their matter involves a public interest aspect. Artists in the Black is only able to offer case work assistance where pro bono support of a major law firm is available. The following firms provided pro bono assistance to AITB in 2009:

- Allens Arthur Robinson (AAR)(in VIC, NSW)
- Blake Dawson (BD)
- Freehills (in WA, NSW)
- Gilbert +Tobin (G+T)
- DLA Phillips Fox (DLAPF) (in WA, NSW, QLD)
- Clayton Utz (CU) (in QLD, NSW)
- Minter Ellison (ME) (in SA, QLD + WA)
- Baker & McKenzie (NSW)

Arts Law is extremely grateful to the firms that provide this assistance as it empowers the artists and arts organisations to achieve real outcomes, for example, where their copyright has been infringed or an outstanding debt is recovered. This assistance is worth approximately \$200,000 per year to Artists in the Black and the clients we assist.

### ILBIJERRI THEATRE COMPANY

The Ilbijerri Theatre Company in Melbourne is Australia's oldest Indigenous theatre company. As part of their annual program, they have held workshops for young Indigenous performers to come together to write and perform in the Melbourne International Comedy Festival. They approached Arts Law in September 2009 for advice and help sorting out copyright ownership over the jokes and other material created in these workshops so they could perform to the public. Arts Law advised Ilbijerri Theatre on a best practice basis which recognised the interests of the artists first over that of the theatre and drafted a simple form that Ilbijerri Theatre could give to participants to sign before starting the workshop. This form was drafted to be as clear and easy to understand as possible, recognising the rights of the individual performers while giving Ilbijerri Theatre a license to perform the material so that the interests of all parties were balanced and accommodated.



*Photo by Steven Rhall/Courtesy of Ilbijerri Theatre Company*

### EDUCATION

There is no doubt that education plays a very valuable role in informing artists of their legal rights and the delivery of workshops continues to be an important strategy for AITB. However in 2009 due to the lack of funding to do the necessary outreach, AITB focussed on having a presence at major Indigenous arts events including Garma NT, Cairns Indigenous Art Fair QLD, The Dreaming QLD, Laura Aboriginal Dance Festival QLD, and the Darwin Art Fair NT. Restricted funding meant that AITB delivered 26 education events to 425 Indigenous artists in 21 locations nationally.

Unfortunately Arts Law also had to discontinue our wills work with Indigenous artists in 2009 as we had no financial support for this important endeavour (previously funded through a grant from the Copyright Agency Limited (CAL)). It is clear with the introduction of resale rights for artists that the need for wills continue to be of considerable importance.

## ADVOCACY

The AITB work demonstrates profoundly the changes that are needed to give Indigenous artists a better deal and the extent to which Indigenous cultural heritage needs better protection. The following areas need to be addressed by Government as soon as possible:

### 1. Need for protection of Indigenous cultural heritage at both national and international levels

On 3 April 2009, the Australian Government formally supported the United Nations' Declaration on the Rights of Indigenous Peoples. Hopefully this will lead to the better protection of Indigenous peoples rights to their cultural heritage set out in Article 31 of the Declaration. Arts Law continues to highlight to Government the issues which regularly arise for the Indigenous artists and communities with whom we work, and are encouraging them to use this opportunity to close the gaps in protection available under Australian laws. Arts Law also raised these issues at the 15th Intergovernmental Committee meeting on the protection of traditional cultural expressions and traditional knowledge at the World Intellectual Property Organisation (WIPO) in Geneva during December.

### 2. Resale rights for Indigenous artists (and non-Indigenous artists)

Arts Law was very pleased that in November 2009 the Government finally passed the *Resale Royalty Right for Visual Artists Act 2009*. Whilst the Act retained the problematic provision that the resale right is not payable on the first resale of works in existence when the Act commenced, the Act is still a significant achievement for Australian visual artists. Arts Law is very proud of the work carried out in a collaborative way by the Coalition for an Australian Resale Right (CARR) which provided an effective voice for the arts community.

### 3. Code of Conduct for Commercial Dealers in Indigenous Art

Throughout the first half of the year Arts Law provided feedback to the Australia Council on the Indigenous Australian Art Commercial Code of Conduct. The Australia Council took over responsibility for finalising the work began by NAVA on this important initiative. Arts Law provided detailed submissions on the Code and participated in the consultative forums. Arts Law will continue to monitor the effectiveness of the Code and assist Arts Centres to put in place effective compliance processes eg contracts with artists and dealers.

### 4. Misleading and Deceptive Conduct

Artists in the Black continues to encourage artists to report misleading and deceptive conduct to the Australian Competition and Consumer Commission (ACCC) and will assist them in this process. Several examples of potential infringements of the Trade Practices laws have come to our attention and AITB will be working with communities to address these issues.

### 5. Intestacy laws in Western Australia

In WA whilst non-Indigenous families can apply to administer the estate of a deceased family member who dies without making a will, the family of a deceased Aboriginal person cannot as the estate vests in the Public Trustee. Freehills, acting pro bono, has received advice from the Western Australian Government of their intention to amend these problematic provisions of the Aboriginal Affairs Planning Authority Act. Arts Law will be monitoring progress on this important law reform issue.

## PUBLICATIONS

AITB continues to distribute the AITB information packs which contain the 4 comic information sheets which deal with copyright, moral rights, contracts and Indigenous Culture and Intellectual Property (ICIP) as well as 4 other information sheets on governance, certificates of authenticity, licensing and business structures.

AITB has also developed contracts for Indigenous artists and art centres; for art centres dealing with galleries; revised the Indigenous artist's sample will; and has 3 contracts for Indigenous language projects. All of the AITB publications are freely available on our website in the Indigenous area.

## FUNDING AND SUPPORT

The AITB service was initially funded by the Commonwealth Government through the Aboriginal and Torres Strait Islander Arts Board of the Australia Council for the Arts. It funded the service in 2004 in response to clearly demonstrated unmet need. Whilst the need for the AITB service continues to grow, Arts Law's capacity to deliver the service was diminished in 2009 as the result of funding decisions, with the Australia Council reducing their final funding instalment by 50% with clear advice that funding will need to be obtained from elsewhere. This was partially ameliorated by the Department of Environment Water Heritage and the Arts (DEWHA) but this still falls far short of what is needed for AITB. The funding future for AITB is still unknown beyond 30 June 2010, but given the considerable demand for the AITB service and the valuable resource it provides to Indigenous artists, their organisations and communities, Arts Law remains quietly optimistic.

In 2009 AITB also received project grants from the NSW Law and Justice Foundation (to develop radio programs on AITB issues); from the Myer Foundation (to work with Indigenous musicians) and from the Victoria Law Foundation (to provide education to artists in regional Victoria). Both philanthropic and pro bono support for AITB continues to be strong as the value of the work is recognised.

## CASE STUDY

### WHEN TWO LAWS COLLIDE

Arts Law was contacted by an Indigenous artist who had been convicted of a criminal offence unrelated to her practice as an artist. One of the consequences of her charge was that the law dealing with this offence deemed all of her assets, including her copyright, the property of the State. The DPP (on behalf of the State) had already assessed the assets as being of no value but had acquired the assets by virtue of the deeming provision in the legislation.

The copyright which had automatically vested with the State included artwork of various Dreaming stories particular to our client's cultural heritage. As our client made a living from her art, it was important she had the right to continue to use her copyright. Under the Copyright Act, ownership of copyright is assigned in writing. Arts Law assisted the client in communicating with the State to request that the copyright be returned to her in the form of an assignment.

# VOLUNTEERS AND PRO BONO ASSISTANCE

## CASE STUDY



### THE MORAL (RIGHTS) OF THE STORY..

What do you do when infrastructure threatens your art? Arts Law recently assisted the creator of a number of large and well known mosaics in Sydney. The mosaics were affixed to a number of surfaces within a shopping centre. The owners of the shopping centre wished to demolish and rebuild the section where the mosaics were placed.

Arts Law advised the client that according to moral rights laws in Australia, creators have certain rights with respect to works which are affixed to buildings, including notice and the right to document the work prior to its demolition. Once informed of these rights, the creator of the mosaics was in a better position to negotiate an extension of time before the demolition of the building. In this time, the creator of the mosaic works was able to find an organisation to house one of the works in order to save them from being destroyed and has gratefully received an offer from the shopping centre giant to fund the housing of the second work while they find it a home!

*Maiden of Abundance  
Skygarden Sydney ©1990  
Photo: by Werner Kirgis  
Courtesy Public Art Squad*



*Mosaic arch from Castelbreagh St entrance Façade of Skygarden Sydney Produced by Public Art Squad ©1990  
Photo: by Werner Kirgis Courtesy Public Art Squad*

Volunteers and pro bono lawyers are integral to the provision of Arts Law services. Pro bono assistance received in 2009 was valued at close to \$1M. Arts Law celebrates the enormous contribution our pro bono supporters make and as a show of appreciation in recent years we have been awarding the top 29 contributors with the Arts Law Print Commission. In 2009 this event was held at DLA Phillips Fox.

## VOLUNTEER LAWYERS

Arts Law receives considerable pro bono assistance from the legal profession in addition to the national face-to-face document review service. Some of the services provided by our volunteer lawyers include the provision of advice to our lawyers when a matter is outside our expertise; writing articles for Art+law, as well as assisting in the development and review of our sample contracts and other publications. Other ways firms assisted were:

- DLA Phillips Fox (Sydney) hosted the Pro Bono Awards and a CLE for lawyers on film and trade practices law;
- 3 firms assisted in the delivery of Arts Law's free telephone advice service: DLA Phillips Fox, Allens Arthur Robinson and Clayton Utz;
- Co-presenting seminars with, or on behalf of Arts Law and we single out Michael Tucak and Darren Sanicki for their help in 2009.
- 8 firms provided casework assistance to our Indigenous clients.

## Secondment of lawyers from the Australian Government Solicitor

The Sydney office of the Australian Government Solicitor commenced a secondment program with Arts Law, providing us with a lawyer from their team for approximately six months. This increased our capacity to deliver services to the arts community considerably. We anticipate that this arrangement will continue in 2010.

### AGS SECONDEES



*Meher Gaven*



*Sarah Tromeey*

# VOLUNTEERS AND PRO BONO ASSISTANCE

## PRO BONO LAWYERS

The lawyers who provide pro bono advice to Arts Law's subscribers at our Legal Advice Nights are referred to as Panel lawyers. In 2009 Arts Law maintained its panel of 240 lawyers throughout Australia ranging from large corporate law firms, government and inhouse counsel, boutique law firms and individual practitioners. The Document Review Service is an important part of the legal services provided by Arts Law and we acknowledge the significant contribution made by the legal profession to the arts community in this regard. Off site telephone advice assistance would not be possible without the generosity of lawyers who assist in delivering our telephone advice.

Arts Law thanks the law firms and legal practitioners who participated in the Arts Law national Document Review Service program and other pro bono work and advice.

### ACT

Durham Grigg	Tres d'Marque IP
William McCarthy	Bradley Allen Lawyers
Amy Thai	Avsuper

### NSW

Andrew Ailwood	Allens Arthur Robinson
Alex Meguid	Clayton Utz
Natalie Shoolman	Clayton Utz
Pouyan Afsha	Allens Arthur Robinson
Mathew Alderson	Gray & Perkins
Charles Alexander	Minter Ellison
Morris Averill	Morris Averill - Solicitor
Nadine Bairle	Allens Arthur Robinson
Alison Barnett	Allens Arthur Robinson
Joanne Been	Allens Arthur Robinson
Dana Beiglari	Allens Arthur Robinson
Sydney Birchall	Optim Legal
Valeska Bloch	Allens Arthur Robinson
Tyrilly Bolton	IBM Australia Ltd
Courtney Booth	Clayton Utz
Sonia Borella	Holding Redlich
Melanie Bouton	Freehills
Stephen Boyle	Freehand Productions
Sophie Bradshaw	Corrs Chambers Westgarth
Rob Brown	ERM
Delia Browne	Copyright Advisory Group
Peter Callaghan	Clayton Utz
Penny Champion	Energy Australia
Adrian Cannon	Cannon Lawyers
Tim Cardiff	Allens Arthur Robinson
Bandini Chhichhia	Allens Arthur Robinson
Christopher Chow	Simpsons Solicitors
Alec Christie	DLA Phillips Fox

Nicholas Cole	DLA Phillips Fox
John Collins	Clayton Utz
Cellia Cotan Cognard	Allens Arthur Robinson
Daryl Cox	Clayton Utz
David Cross	Deacons
Robert Culter	Clayton Utz
Khai Dang	Blake Dawson
Mark Davidson	Davidson & Associates
Sandy Dawson	Banco Chambers
Michele De Bonis	Granada Productions
Stephen Digby	Digby Law
Deborah Doctor	ABC Legal Services
Michael Easton	Brett Oaten Solicitors
Shelley Einfeld	Gilbert + Tobin
Jackie Emery	DLA Phillips Fox
Kate Erman	CSIRO
John Fairbairn	Clayton Utz
Adrian Fisher	Allens Arthur Robinson
Jim FitzSimons	Clayton Utz
Simone Flanigan	iSoft Group P/L
Adam Flynn	National Film & Sound Archive
Kate Gilchrist	ABC Legal Services
Katherine Giles	ABC Legal Services
Tim Gole	Gilbert + Tobin
Adrian Goss	ACP Magazines
Troy Gurnett	Middletons
Matthew Hall	Swaab Attorneys
Michael Hall	Nigel Bowen Chambers
Catherine Hallgarth	Swaab Attorneys
Emily Hawcroft	Clayton Utz
Calum Henderson	Deacons
Graeme Hodgkinson	Herbert Geer
Ant Horn	MTV Networks Australia

# VOLUNTEERS AND PRO BONO ASSISTANCE

James Howard	Supreme Court of NSW	Brianna Quinn	Clayton UtzAlexandra
Korina Hui	Clayton Utz	Salib	Allens Arthur Robinson
Rachel Jacqueline	DLA Phillips Fox	Tureia Sample	SBS
Peter Karcher	Gray & Perkins	Mary Saywell	Baker McKenzie
Nicole Kassis	DLA Phillips Fox	Peter Sharkey	Freehills
Helen Kavadias	Dibbs Barker	Nathan Shepherd	Herbert Geer
William Kim	Allens Arthur Robinson	Anny Slater	Slaters Intellectual Property Lawyers
Richard Lancaster	Wentworth Chambers	Amity St Clair	Henry Davis York
Peter Le Guay	Thomson Playford Cutlers	Alida Stanley	
Raena Lea- Shannon	Frankel Lawyers	Clare Stanwix	DLA Phillips Fox
Jim Lennon	Middletons	Sonia Stewart	Mallesons Stephen Jaques
Amanda Leong	DLA Phillips Fox	Miriam Stiel	Allens Arthur Robinson
Elaine Leong	Optus	Mary Still	Clayton Utz
Gary Lo	Allens Arthur Robinson	Maki Takken	Deacons
Sarah Longes	Allens Arthur Robinson	Anisha Travis	Gilbert + Tobin
Louisa Maephillamy	Clayton Utz	Mandy Van Den Elshout	ABC Legal Services
Kelly Marshall	Clayton Utz	Matthew Vitins	Allens Arthur Robinson
Emily Martin	ABC Legal Services	Stephen Von Muenster	Von Muenster Solicitors & Attorneys
Cass Matthews	UBI World TV	Hamish Watson	Hamish Watson
Sally McCausland	SBS	Timothy Webb	Clayton Utz
Andrew McGovern	Allens Arthur Robinson	Nicole Winton	Allens Arthur Robinson
John McGruther	John A. McGruther Solicitor	<b>NT</b>	
Adrian McGruther	Allens Arthur Robinson	Duncan Thomson	Minter Ellison
Mary Jane McKerihan	SingTel Optus Pty Ltd	<b>QLD</b>	
Amanda Meehan	Digby Law	Tom Bicknell	DLA Phillips Fox
Naomi Messenger	Swaab Attorneys	Andrew Cardell-Ree	Herbert Geer
Clare Mirabello	TressCox Lawyers	Elliott Dalglish	Northpoint Chambers
Judith Miller	DLA Phillips Fox	Jamie Doran	Clayton Utz
Simone Mitchell	Clayton Utz	Donnie Harris	Roberts Nehmer McKee
Michael Montgomery	Clayton Utz	<b>SA</b>	
Alicia Moody	Allens Arthur Robinson	Robert Lempens	Camatta Lempens Pty Ltd
Jasmine Morris	ASX Limited	Bill Morrow	Norman Waterhouse
Peter Mulligan	Henry Davis York	Ai Phan	Tri Meridian
Jules Munro	Simpsons Solicitors	<b>TAS</b>	
Wendy Ng	Transurban	Elise Archer Dobson	Mitchell & Allport
Christina Nguyen	Marque Lawyers	Leonard Fernandez	Toomer Manning & Co
Jackie O'brien	Allens Arthur Robinson	Andrew Walker	Dobson Mitchell Allport
Elizabeth Margaret Olsson	Garfield Barwick Chambers		
Shane Paterson	Home Wilkinson Lawry		
Cameron Patience	Freehills		
Janine Pearce	JP Media Law		
Gary Penny	Gary Penny Lawyers		
Anthony Poole	Austar Entertainment		
Daniel Posker	Freehills		

# VOLUNTEERS AND PRO BONO ASSISTANCE

## VIC

Tyrone Berger	Actuate IP
David Curtain	AWB Limited
Tim Golder	Allens Arthur Robinson
Jerry Gomez	Gomez Partners Lawyers and Consultants
Julian Hewitt	Media Arts Lawyers
Bethany Jones	Media Arts Lawyers
Taryn McCamley	Mallesons Stephen Jaques
Andrew Panna	Barrister
Zero Partos	Barrister
Warwick Rothnie	Barrister
Peter Dominic Ryan	Allens Arthur Robinson
James Samargis	Barrister
Darren Sanicki	Darren Sanicki Music & Entertainment Lawyers
Campbell Thompson	Freehills

Kimberley Trainor	Davies Collison Cave
Victor Tse	Victor Tse & Associates
Michael Tucak	Creative Legal
David Vodicka	Media Arts Lawyers
Frances Wheelahan	Corrs Chambers Westgarth
Mark Williams	Williams Solicitors
Gillian Wong	National Australia Bank
Tracey Wren	Orica Australia

## WA

David Cox	Jackson McDonald Lawyers
Stephanie	Faulkner Jackson McDonald
Carmel Galati	Edwards Wallace
June Kenny	Dwyer Durack
Jamie Lyford	Elevation Partners Pty Ltd
Michael Paterson	Michael Paterson & Associates
David Stewart	Wrays Lawyers

## REFERRAL SERVICES AND OTHER PRO BONO ASSISTANCE

In addition to referrals to Arts Law panel lawyers (on both fee for service and pro bono basis), we also provide referrals to other professionals where Arts Law is unable to assist further. Arts Law maintains panels for referrals to Accountants, Insurers and Mediators.

These professionals provide services on a paid basis but often at a reduced rate for Arts Law's subscribers. Arts Law gratefully acknowledges the support of the following:

- Michael Dean    Accountant    WalterTurnbull
- Steven Miller    Accountant    Steven Miller & Co

## DOCUMENT REVIEW SERVICE ASSISTANTS

Arts Law plays a key developmental role via our volunteer legal assistant program. In Melbourne, Canberra and Sydney legal assistants sit in and take notes at the Legal Advice Night sessions, benefiting from the expertise of the panel lawyers and gaining a better understanding of the legal issues facing the creative sector.

In 2009 there were 10 assistants, and our gratitude extends to:

Catherine Allsop	Deidre Missingham
Felicity Blake	Marie Sheriff
Alison Cairns	Olivia Stokes
Mandy Chapman	
Deborah Doctor	
Sarah Le Messurier	
Tricia Liew	

# VOLUNTEERS AND PRO BONO ASSISTANCE

## VOLUNTEERS

Arts Law has a daytime volunteer program for law students, law graduates as well as for qualified lawyers. Volunteers perform a variety of tasks; including general administration duties, research, assisting with the provision of legal advice, note taking of legal advices and writing articles for *ART+law*.

In 2009 there were 14 day time volunteers, and our thanks go to:

Kathryn Adler	Christina Lam
Katherine Allsop	Naomi McMullan
Jennifer Arnup	Kate Morton
Annabel Clemens	Emma Perera
James Heller	Rachel Roberts
Amity Jarvis	Jacqueline Winters
Jerome John	Sharon Zhang

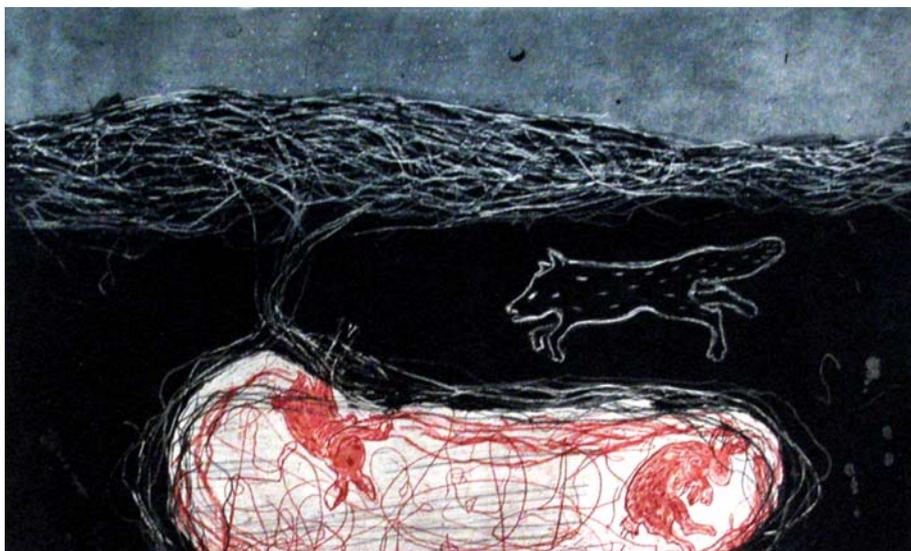
## STUDENT PLACEMENTS

Arts Law has a well-established student placement program with a number of law schools including University of Sydney, University of New South Wales and University of Wollongong.

Generally students are required to work at least one day per week as part of their course requirements. Depending upon our capacity, Arts Law also accepts law graduates completing their College of Law requirement for practical legal training prior to admission to the NSW Supreme Court.

In 2009 Arts Law had the following student placements:

Kate Christiansen	Practical Legal Training
Beatrice Cohen	International Internship
Ethan Schiffres	International Internship



*Arts Law's 2009 Print Commission Award received by 29 pro bono lawyers at the annual Pro Bono Awards Night. A student commission by Gwenn Tasker titled 'Safe Haven'.*

# ARTS LAW CENTRE OF AUSTRALIA LTD

ABN 71 002 706 256

# FINANCIAL REPORT

FOR THE YEAR ENDED  
31 DECEMBER 2009



Your directors present this report on the company for the financial year ended 31 December 2009.

### Directors

The names of each person who has been a director during the year and to the date of this report are:

The Hon. Peter C Heerey	Professor Jill P McKeough
Ms Megan Brownlow	Mr Steven J Miller
Mr Peter G Griffin	The Hon. Justice George A Palmer AM
Mr Andrew Wiseman	Ms Hetti Perkins

Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

### Company Secretary

The following person held the position of company secretary at the end of the financial year:

Robyn K Ayres - Bachelor of Arts, Bachelor of Laws. Ms Ayres has worked for the Arts Law Centre of Australia Ltd for the past 6 years as the Executive Director.

### Principal Activities

The principal activity of the Company during the financial year was the provision of legal services to artists and arts organisations.

There were no significant changes in the nature of the Company's principal activities during the financial year.

### Operating Result

The net deficit of the company amounted to \$51,955. (2008: deficit of \$12,069)

### Dividends and Options

The company is limited by guarantee and is not permitted to pay dividends or issue options.

### Review of Operations

The 2009 financial year brought positive results for the many users of the Arts Law Centre of Australia's services. However, financially the company's result was affected by reductions in grant and other funding, a total reduction in revenue of approximately \$56,000. Although expenditure was approximately \$17,000 less than 2008, this reduction was not enough to offset the reductions in revenue for the year and accordingly the level of the deficit.

### Significant Changes in State of Affairs

No significant changes in the company's state of affairs occurred during the financial year.

### After Balance Date Events

No matters or circumstances have arisen since the end of the financial year which significantly affected or may significantly affect the operations of the company, the results of those operations, or the state of affairs of the company in future financial years.

## Continued

**Future Developments**

The company expects to maintain the present status and level of operations and hence there are no likely developments in the company's operations.

**Options**

No options over issued shares or interests in Arts Law were granted during or since the end of the financial year and there were no options outstanding at the date of this report.

**Environmental Issues**

The company's operations are not regulated by any significant environmental regulation under a law of the Commonwealth or of a state or territory.

**Information on Directors***Peter Cadden Heerey*

- > Qualifications BA LLB
- > Experience Federal Court Judge
- > Special Responsibilities Chair of the Victorian Advisory Council,  
Vice President

*Professor Jill McKeough*

- > Qualifications BA LLB LLM
- > Experience Dean, Faculty of Law, University of Technology Sydney
- Special Responsibilities Advocacy and marketing subcommittees

*Steven John Miller*

- > Qualifications B Bus CA
- > Experience Chartered accountant
- > Special Responsibilities Honorary Treasurer and Finance subcommittee

*The Hon Justice George Palmer*

- > Qualifications BA LLB
- > Experience Supreme Court Judge
- > Special Responsibilities President

*Megan Brownlow*

- > Qualifications BA(Hons) MBA
- > Experience Strategy, Technology, Information, Communications and  
Entertainment, PricewaterhouseCoopers.
- Special Responsibilities Fundraising & Marketing subcommittee

*Peter Gerard Griffin*

- > Qualifications BBus
- > Experience Divisional Manager, Corporate Affairs Strategy  
and Environment, Toyota Australia
- > Special Responsibilities Fundraising & Marketing subcommittee

*Andrew Wiseman*

- > Qualifications LLB(Hons) LLM
- > Experience Partner, Allens Arthur Robinson

*Hetti Perkins*

- > Experience Senior Curator of Indigenous art at AGNSW
- > Special Responsibilities AITB Reference Group

## Continued

**Meetings of Directors**

During the year, 4 meetings of the Board of Directors were held. Attendances by each director were as follows:

DIRECTORS MEETINGS		
	Number attended	Eligible to attend
The Hon. Justice George A Palmer AM	4	4
The Hon. Peter C Heerey	3	4
Professor Jill P McKeough	3	4
Mr Peter G Griffin	2	4
Ms Megan Brownlow	4	4
Mr Steven J Miller	4	4
Ms Robyn Ayres	4	4
Mr Andrew Wiseman	4	4
Ms Hetti Perkins	-	1

**Indemnification of Officers or Auditor**

The company has not, during or since the year, in respect of any person who is or has been an officer or auditor of the company or a related body corporate:

- > indemnified or made any relevant agreement for indemnifying against a liability incurred as an officer, including costs and expenses in successfully defending legal proceedings; or
- > paid or agreed to pay a premium in respect of a contract insuring against a liability incurred as an officer for the costs or expenses to defend legal proceedings;

with the exception that the company has paid premiums to insure each director against liabilities for costs and expenses incurred by them in defending any legal proceedings arising out of their conduct while acting in the capacity of director of the company, other than conduct involving a wilful breach of duty in relation to the company. The amount of the premium for this cover was \$708.

**Proceedings on Behalf of Company**

No person has applied for leave of Court to bring proceedings on behalf of the company or intervene in any proceedings, to which the company is a party for the purpose of taking responsibility on behalf of the company for all or part of those proceedings.

The company was not party to any such proceedings during the year.

**Auditor's Independence Declaration**

The lead auditor's independence declaration for the year ended 31 December 2009 has been received and can be found on page 4 of the directors' report.

Signed in accordance with a resolution of the directors.



Steven Miller  
Director

Sydney, NSW  
Dated this day of March 2010

# AUDITOR'S INDEPENDENCE DECLARATION

## UNDER SECTION 307C OF THE CORPORATIONS ACT 2001 TO THE DIRECTORS OF THE ARTS LAW CENTRE OF AUSTRALIA

I declare that, to the best of my knowledge and belief, during the year ended 31 December 2009 there have been:

- (i) no contraventions of the auditor independence requirements as set out in the Corporations Act 2001 in relation to the audit; and
- (ii) no contraventions of any applicable code of professional conduct in relation to the review.



Don Walter  
Registered Company Auditor  
Sydney, NSW  
WalterTurnbull

Dated this 24th day of March 2010

# INDEPENDENT AUDIT REPORT

**TO THE MEMBERS OF ARTS LAW CENTRE OF AUSTRALIA LTD  
ABN 71 002 706 256**

## **Report on the Financial Report**

We have audited the accompanying financial report of Arts Law Centre of Australia Ltd which comprises the statement of financial position at 31 December 2009 and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year ended on that date, a summary of significant accounting policies and other explanatory notes and the directors' declaration.

## **Directors' Responsibility for the Financial Report**

The directors of the Company are responsible for the preparation and fair presentation of the financial report in accordance with the Australian Accounting Standards (including the Australian Accounting Interpretations) and the Corporations Act 2001. The responsibility includes designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

## **Auditor's Responsibility**

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards required that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Company's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

## Additional Scope pursuant to the Charitable Fundraising Act 1991

In addition, our audit report has been prepared for the members of the Company in accordance with Section 24(2) of the *Charitable Fundraising Act (NSW) 1991*. Accordingly we have performed additional work beyond that which is performed in our capacity as auditors pursuant to the *Corporations Act 2001*. These additional procedures included obtaining an understanding of the internal control structure for fundraising appeal activities and examination, on a test basis, of evidence supporting compliance with the accounting and associated record keeping requirements for fundraising appeal activities pursuant to the *Charitable Fundraising Act (NSW) 1991* and Regulations.

It should be noted that the accounting records and data relied upon for reporting on fundraising appeal activities are not continuously audited and do not necessarily reflect after the event accounting adjustments and the normal period end financial adjustments for such matters as accruals, prepayments, provisioning and valuation necessary for period end financial statement preparation.

The performance of our audit included a review of internal controls for the purpose of determining the appropriate audit procedures to enable an opinion to be expressed on the financial statements. This review is not a comprehensive review of all those systems or of the system taken as a whole and is not designated to uncover all weaknesses in those systems.

The audit opinion expressed in this report pursuant to the *Charitable Fundraising (NSW) Act 1991* and regulations has been formed on the above basis.

## Independence

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*. We confirm that the independence declaration required by the *Corporations Act 2001*, provided to the directors of the Company on 17 March 2010 would be in the same terms if provided to the directors as at the date of this auditor's report.

## Qualification

It is not always practicable for the Company to establish accounting control over unsolicited donations prior to receipt of these funds and accordingly it is not possible for our examination to include procedures which extend beyond the amounts of such income recorded in the accounting records of the Company.

In respect to the qualification above, based on our review of the internal controls, nothing has come to our attention, which would cause us to believe that the internal controls over income from fundraising and donations by the Company are not appropriate.

## Qualified Audit Opinion pursuant to the Corporations Act 2001

In our opinion, except for the effects, if any of the qualification set out above, the financial report of Arts Law Centre of Australia Limited is in accordance with the Corporations Act 2001, including:

- i. giving a true and fair view of the Company's financial position as at 31 December 2009 and of its financial performance and cash flows for the year ended on that date; and
- ii. complying with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Corporations Regulations 2001.

### Qualified Audit Opinion pursuant to the *Charitable Fundraising (NSW) Act 1991*

In our opinion, except for the effects, if any of the qualification set out above:

- a. The financial report gives a true and fair view of the financial result of fundraising appeal activities for the financial year ended 31 December 2009;
- b. The financial report has been properly drawn up, and the associated records have been properly kept for the period from 1 January 2008 to 31 December 2009, in accordance with the Charitable Fundraising (NSW) Act 1991 and its regulations;
- c. Money received as a result of fundraising appeal activities conducted during the period from 1 January 2009 to 31 December 2009 has been properly accounted for and applied in accordance with the Charitable Fundraising (NSW) Act 1991 and its regulations; and
- d. There are reasonable grounds to believe that Arts Law Centre of Australia Ltd will be able to pay its debts as and when they fall due.



Don Walter  
Registered Company Auditor  
Sydney, NSW  
WalterTurnbull

Dated this 25th day of March 2010

# DIRECTORS' DECLARATION

The directors of the Company declare that:

1. the financial statements and notes, as set out on pages 10 to 30, are in accordance with the Corporations Act 2001, and:
  - (a) comply with Australian Accounting Standards; and
  - (b) give a true and fair view of the financial position as at 31 December 2009 and of the performance for the year ended on that date of the Company;
2. in the directors' opinion there are reasonable grounds to believe that the Company will be able to pay its debts as and when they become due and payable;
3. pursuant to Schedule 1, Section 7(3) of the NSW Charitable Fundraising Regulations 2008;
  - (a) the income statement is drawn up so as to give a true and fair view of income and expenditure of the Company for the year ended 31 December 2009 with respect to fundraising appeals;
  - (b) the balance sheet and statement of cash flows are drawn up so as to give a true and fair view of the state of affairs of the Company as at 31 December 2009 with respect to fundraising appeals;
  - (c) the provisions of the Charitable Fundraising Act 1991 and the regulations under the Act and the conditions attached to the Company have been complied with for the year ended 31 December 2009; and
  - (d) the internal controls exercised by the Company are appropriate and effective in accounting for all income received and applied by the Company from any of the fundraising appeals.

This declaration is made in accordance with a resolution of the Board of Directors.



Steven Miller  
Sydney, NSW  
Director  
Dated this day of March 2010

# INCOME STATEMENT

FOR THE YEAR ENDED 31 DECEMBER 2009

	Note	2009 \$	2008 \$
Revenue	2	600,173	651,165
Other income	2	211,073	216,759
Staff and related costs		(619,232)	(591,541)
Administration and overheads		(201,473)	(238,793)
Education and publications		(33,685)	(40,883)
Promotion		(8,811)	(8,776)
Deficit before income tax expense		(51,955)	(12,069)
Income tax expense	1(a)	-	-
Deficit after income tax		(51,955)	(12,069)
Other comprehensive income		-	-
Total comprehensive income		(51,955)	(12,069)

# STATEMENT OF FINANCIAL POSITION

AT 31 DECEMBER 2009

	Note	2009 \$	2008 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	4	277,899	424,936
Trade and other receivables	5	3,136	27,570
Inventories	6	20,818	17,560
<b>TOTAL CURRENT ASSETS</b>		<u>301,853</u>	<u>470,066</u>
<b>NON-CURRENT ASSETS</b>			
Leasehold improvements, plant and equipment	7	15,627	14,637
Intangible assets	8	-	-
<b>TOTAL NON CURRENT ASSETS</b>		<u>15,627</u>	<u>14,637</u>
<b>TOTAL ASSETS</b>		<u>317,480</u>	<u>484,703</u>
<b>CURRENT LIABILITIES</b>			
Trade and other payables	9	170,630	288,239
<b>TOTAL CURRENT LIABILITIES</b>		<u>170,630</u>	<u>288,239</u>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	10	14,615	12,274
<b>TOTAL NON-CURRENT LIABILITIES</b>		<u>14,615</u>	<u>12,274</u>
<b>TOTAL LIABILITIES</b>		<u>185,245</u>	<u>300,513</u>
<b>NET ASSETS</b>		<u>132,235</u>	<u>184,190</u>
<b>EQUITY</b>			
Retained earnings		132,235	184,190
<b>TOTAL EQUITY</b>		<u>132,235</u>	<u>184,190</u>

The accompanying notes form part of these financial statements.

# STATEMENT OF CHANGES IN EQUITY

FOR THE YEAR ENDED 31 DECEMBER 2009

	Note	2009 \$	2008 \$
Equity as at 1 January		184,190	196,259
Comprehensive Income		(51,955)	(12,069)
Equity as at 31 December		132,235	184,190

The accompanying notes form part of these financial statements.

# CASH FLOW STATEMENT

FOR THE YEAR ENDED 31 DECEMBER 2009

	Note	2009 \$	2008 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts from government and customers		738,524	954,652
Payments to suppliers and employees		(889,700)	(942,270)
Interest received		12,389	27,746
Net cash generated from by operating activities	11	(138,787)	40,128
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Payment for property, plant and equipment		(8,250)	(4,740)
Deposits refunded / (paid)		-	300
Net cash (used in) investing activities		(8,250)	(4,440)
Net increase in cash held		(147,037)	35,688
Cash at the beginning of the financial year		424,936	389,248
Cash at the end of the financial year	4	277,899	424,936

# NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 DECEMBER 2009

## NOTE 1: Statement of Significant Accounting Policies

The financial report is for the Arts Law Centre of Australia Limited (the Company) as an individual company, incorporated and domiciled in Australia. The Arts Law Centre of Australia Limited is a public company limited by guarantee.

### Basis of Preparation

The financial report is a general purpose financial report that has been prepared in accordance with Australian Accounting Standards, including Australian Accounting Interpretations, other authoritative pronouncements of the Australian Accounting Standards Board and the *Corporations Act 2001*.

Australian Accounting Standards set out accounting policies that the AASB has concluded would result in a financial report containing relevant and reliable information about transactions, events and conditions. Material accounting policies adopted in the preparation of this financial report are presented below and have been consistently applied unless otherwise stated.

The financial report has been prepared on an accruals basis and is based on historical costs, modified, where applicable, by the measurement at fair value of selected noncurrent assets, financial assets and financial liabilities.

### (a) Income Tax

No provision for income tax has been raised as the company is exempt from income tax under Div 50 of the Income Tax Assessment Act 1997.

### (b) Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, deposits held at call with banks, other short-term highly liquid investments, term deposits and bank overdrafts.

### (c) Inventories

Inventories held for sale are measured at the lower of cost and current replacement cost. Inventories held for distribution are measured at the lower of cost and current replacement cost.

### (d) Employee Benefits

Provision is made for the Company's liability for employee benefits arising from services rendered by employees to balance date. Employee benefits expected to be settled within one year together with benefits arising from wages, salaries and annual leave which may be settled after one year, have been measured at amounts expected to be paid when the liability is settled. Other benefits payable later than one year have been measured at the present value. Contributions are made by the company to an employee superannuation fund and are charged as expenses when incurred.

## (e) Leasehold Improvements, Plant and Equipment

Each class of plant and equipment is carried at cost or fair value less, where applicable, any amount of accumulated depreciation and impairment loss.

### Plant and Equipment

Plant and equipment are measured on the cost basis less depreciation and impairment loss.

The carrying amount of plant and equipment is reviewed annually by directors to ensure it is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the assets employment and subsequent disposal. The expected net cash flows have been discounted to their present values in determining recoverable amounts.

Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the group and the cost of the item can be measured reliably. All other repairs and maintenance are charged to the income statement during the financial period in which they are incurred.

### Depreciation

The depreciable amount of all fixed assets including capitalised lease assets, is depreciated on a straight line basis over their useful lives to the Company commencing from the time the asset is held ready for use. Leasehold improvements are depreciated over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements. The depreciation rates used for each class of depreciable assets are:

<i>Class of Non Current Asset</i>	<i>Depreciation Rate</i>
Computer equipment	33.33%
Office furniture	10.0%
Office equipment	10.0% to 40%

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each balance sheet date.

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Gains and losses on disposals are determined by comparing proceeds with the carrying amount. These gains or losses are included in the income statement. When revalued assets are sold, amounts included in the revaluation reserve relating to that asset are transferred to retained earnings.

## (f) Intangibles

Expenditure on website development activities is capitalised if the product is technically and commercially feasible and adequate resources are available to complete the development. The expenditure capitalised comprises all directly attributable costs, including costs of material, services, direct labour and an appropriate proportion of overheads. Capitalised website development expenditure has a finite useful life and is carried at cost less accumulated amortisation, it has an estimated useful life of 3 years. Intangibles are assessed annually for impairment.

### **(g) Revenue**

Grant revenue is recognised in the income statement when the company obtains control of the grant and it is probable that the economic benefits gained from the grant will flow to the company and the amount of the grant can be measured reliably.

If conditions are attached to the grant which must be satisfied before it is eligible to receive the contribution, the recognition of the grant as revenue will be deferred until those conditions are satisfied

When grant revenue is received whereby the company incurs an obligation to deliver economic value directly back to the contributor, this is considered a reciprocal transaction and the grant revenue is recognised in the balance sheet as a liability until the service has been delivered to the contributor, otherwise the grant is recognised as income on receipt.

Royalties are recognised as revenue when the amount received from the agency collects the royalties.

Interest revenue is recognised on a proportional basis taking into account the interest rates applicable to the financial assets.

Other revenue is recognised upon the delivery of goods and services to the client.

All revenue is stated net of the amount of goods and services tax (GST).

### **(h) Goods and Services Tax (GST)**

Revenues, expenses and assets are recognised net of the Amount of GST, except where the amount of GST incurred is not recoverable from the Australian Tax Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the balance sheet are shown inclusive of GST.

Cash flows are presented in the cash flow statement on a gross basis, except for the GST component of investing and financing activities, which are disclosed as operating cash flows.

### **(i) Financial Instruments**

#### *Initial recognition and measurement*

Financial assets and financial liabilities are recognised when the company becomes a party to the contractual provisions to the instrument. For financial assets, this is equivalent to the date that the company commits itself to either purchase or sell the asset (ie trade date accounting is adopted). Financial instruments are initially measured at fair value plus transactions costs except where the instrument is classified 'at fair value through profit or loss' in which case transaction costs are expensed to profit or loss immediately.

#### *Classification and subsequent measurement*

Financial instruments are subsequently measured at either fair value, amortised cost using the effective interest rate method or cost. Fair value represents the amount for which an asset could be exchanged or a liability settled, between knowledgeable, willing parties. Where available, quoted prices in an active market are used to determine fair value. In other circumstances, valuation techniques are adopted.

Amortised cost is calculated as:

- i. the amount at which the financial asset or financial liability is measured at initial recognition;
- ii. less principal repayments;
- iii. plus or minus the cumulative amortisation of the difference, if any, between the amount initially recognised and the maturity amount calculated using the effective interest method; and
- iv. less any reduction for impairment.

The effective interest method is used to allocate interest income or interest expense over the relevant period and is equivalent to the rate that exactly discounts estimated future cash payments or receipts (including fees, transaction costs and other premiums or discounts) through the expected life (or when this cannot be reliably predicted, the contractual term) of the financial instrument to the net carrying amount of the financial asset or financial liability. Revisions to expected future net cash flows will necessitate an adjustment to the carrying value with a consequential recognition of an income or expense in profit or loss.

*(i) Financial assets at fair value through profit or loss*

Financial assets are classified at 'fair value through profit or loss' when they are held for trading for the purpose of short-term profit taking, or where they are derivatives not held for hedging purposes, or when they are designated as such to avoid an accounting mismatch or to enable performance evaluation where a group of financial assets is managed by key management personnel on a fair value basis in accordance with a documented risk management or investment strategy. Such assets are subsequently measured at fair value with changes in carrying value being included in profit or loss.

*(ii) Loans and receivables*

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market and are subsequently measured at amortised cost.

*(iii) Held-to-maturity investments*

Held-to-maturity investments are non-derivative financial assets that have fixed maturities and fixed or determinable payments, and it is the company's intention to hold these investments to maturity. They are subsequently measured at amortised cost.

*(iv) Available-for-sale financial assets*

Available-for-sale financial assets are non-derivative financial assets that are either not capable of being classified into other categories of financial assets due to their nature, or they are designated as such by management. They comprise investments in the equity of other entities where there is neither a fixed maturity nor fixed or determinable payments.

*(v) Financial liabilities*

Non-derivative financial liabilities (excluding financial guarantees) are subsequently measured at amortised cost.

### **(j) Unexpended Grants**

The company receives grant monies to fund projects either for contracted periods of time or for specific projects irrespective of the period of time required to complete those projects. It is the policy of the company to treat grants monies as unexpended grants in the balance sheet where the company is contractually obliged to provide the services in a subsequent financial period to when the grant is received or in the case of specific project grants where the project has not yet been completed.

### **(k) Provisions**

Provisions are recognised when the company has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured. Provisions recognised represent the best estimate of the amounts required to settle the obligation at reporting date.

### **(l) Comparative Figures**

When required by Accounting Standards, comparative figures have been adjusted to conform to changes in presentation for the current financial year.

### **(m) Leases**

Lease payments for operating leases, where substantially all the risks and benefits remain with the lessor, are charged as expenses on a straight-line basis over the lease term.

Lease incentives under operating leases are recognised as a liability and amortised on a straight-line basis over the life of the lease term.

### **(n) New Accounting Standards for Application in Future Periods**

The AASB has issued new, revised and amended standards and interpretations that have mandatory application dates for future reporting periods. The company has decided against early adoption of these standards. A discussion of those future requirements and their impact on the company is as follows:

- > AASB 2008-11: Amendments to Australian Accounting Standard - Business Combinations among Not-for-Profit Entities (applicable to annual reporting periods beginning on or after 1 July 2009). These amendments make the requirements in AASB 3: Business Combinations applicable to business combinations among not for-profit entities (other than restructures of local governments) that are not commonly controlled, and to include specific recognition, measurement and disclosure requirements in AASB 3 for restructures of local governments.
- > AASB 2008-5: Amendments to Australian Accounting Standards arising from the Annual Improvements Project (July 2008) (AASB 2008-5) and AASB 2008-6: Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project (July 2008) (AASB 2008-6) detail numerous non-urgent but necessary changes to accounting standards arising from the IASB's annual improvements project. No changes are expected to materially affect the company.
- > AASB 2008-8: Amendments to Australian Accounting Standards - Eligible Hedged Items [AASB 139] (applicable for annual reporting periods commencing from 1 July 2009). This amendment clarifies how the principles that determine whether a hedged risk or portion of cash flows is eligible for designation as a hedged item should be applied in particular situations and is not expected to materially affect the company.

- > AASB 2008-13: Amendments to Australian Accounting Standards arising from AASB Interpretation 17 - Distributions of Non-cash Assets to Owners [AASB 5 and AASB 110] (applicable for annual reporting periods commencing from 1 July 2009). This amendment requires that non-current assets held for distribution to owners to be measured at the lower of carrying value and fair value less costs to distribute.
- > AASB Interpretation 16: Hedges of a Net Investment in a Foreign Operation (applicable for annual reporting periods commencing from 1 October 2008). Interpretation 16 applies to entities that hedge foreign currency risk arising from net investments in foreign operations and that want to adopt hedge accounting. The interpretation provides clarifying guidance on several issues in accounting for the hedge of a net investment in a foreign operation and is not expected to impact the company.
- > AASB Interpretation 17: Distributions of Non-cash Assets to Owners (applicable for annual reporting periods commencing from 1 July 2009). This guidance applies prospectively only and clarifies that non-cash dividends payable should be measured at the fair value of the net assets to be distributed where the difference between the fair value and carrying value of the assets is recognised in profit or loss.
- > AASB Interpretation 18: Transfers of Assets from Customers (applicable for annual reporting periods commencing from 1 July 2009). This guidance applies prospectively to entities that receive transfers of assets, such as plant and equipment, from their customers in order to connect customers to a network and provide them with access to a supply of goods or services. The Interpretation outlines the appropriate accounting treatment in respect of such transfers.

The company does not anticipate early adoption of any of the above reporting requirements and does not expect them to have any material effect on the company's financial statements.

### (O) Critical Accounting Estimates and Judgments

The directors evaluate estimates and judgments incorporated into the financial report based on historical knowledge and best available current information. Estimates assume a reasonable expectation of future events and are based on current trends and economic data, obtained both externally and within the company.

#### Note 2: Revenue and other income

	2009	2008
	\$	\$
<i>Revenue from government grants</i>		
- Government grants	600,173	651,165
<i>Other Income</i>		
- Membership subscriptions	64,465	72,495
- Publication sales	31,632	38,594
- Interest Received	13,732	27,547
- Donations <sup>1</sup>	13,511	13,403
- Other	87,733	64,720
	211,073	216,759
<b>Total Revenue and Other Income</b>	<b>811,246</b>	<b>867,924</b>

<sup>1</sup> Donations from fundraising were unsolicited non-reciprocal contributions and as such no direct costs of fundraising have been attributed.

**Note 3: Profit for the Year**

	<b>2009</b>	<b>2008</b>
	<b>\$</b>	<b>\$</b>
<b>(a) Expenses</b>		
Depreciation and amortisation:		
- plant and equipment	4,484	9,700
- leasehold improvements	2,376	2,382
- website development	-	-
Total depreciation and amortisation	<u>6,860</u>	<u>12,082</u>
Total employee benefits expense	619,232	591,541
Rental expense on operating leases		
- minimum lease payments	6,929	6,929
Auditor remuneration:		
- audit services	6,500	5,900
- other services	-	-
Total audit remuneration	<u>6,500</u>	<u>5,900</u>

**(b) Significant Revenue and Expenses**

Net gain/(loss) on disposal of non-current assets		
Property, plant and equipment:		
- Proceeds on disposal	-	-
- Disposals at costs	<u>400</u>	<u>-</u>
Net gain / (loss) on disposal as at 31 December 2009	<u>(400)</u>	<u>-</u>

**Note 4: Cash and Cash Equivalents**

Cash at bank and on hand	123,945	270,982
Term deposits	153,954	153,954
	<u>277,899</u>	<u>424,936</u>

**Note 5: Trade and Other Receivables**

## CURRENT

Trade receivables	1,980	25,949
Accrued revenue	1,156	1,621
	<u>3,136</u>	<u>27,570</u>

### (i) Provision for Impairment of Receivables

Current trade receivables are generally on 30 day terms. These receivables are assessed for recoverability and a provision for impairment is recognised when there is objective evidence that an individual trade receivable is impaired. No provision for the impairment of receivables is recorded at 31 December 2009.

### (ii) Credit Risk – Trade and Other Receivables

The company does not have any material credit risk exposure to any single receivable or group of receivables.

The following table details the Company's trade and other receivables exposed to credit risk (prior to collateral and other credit enhancements) with ageing analysis and impairment provided for thereon. Amounts are considered as 'past due' when the debt has not been settled within the terms and conditions agreed between the company and the customer or counter party to the transaction. Receivables that are past due are assessed for impairment by ascertaining solvency of the debtors and are provided for where there are specific circumstances indicating that the debt may not be fully repaid to the company.

The balances of receivables that remain within initial trade terms (as detailed in the table) are considered to be of high credit quality.

	Gross Amount	Past Due and Impaired	Past Due but not impaired (days overdue)				Within initial Trade Terms
			< 30	31 - 60	61 - 90	> 90	
	\$	\$	\$	\$	\$	\$	\$
<b>2009</b>							
Trade Receivables	1,980	-	-	-	-	1,980	-
Other Receivables	1,156	-	-	-	-	-	1,156
<b>Total</b>	<b>3,136</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,980</b>	<b>1,156</b>

	Gross Amount	Past Due and Impaired	Past Due but not impaired (days overdue)				Within initial Trade Terms
			< 30	31 - 60	61 - 90	> 90	
	\$	\$	\$	\$	\$	\$	\$
<b>2008</b>							
Trade Receivables	25,949	-	22,460	-	-	-	3,489
Other Receivables	1,621	-	-	-	-	-	1,621
<b>Total</b>	<b>27,570</b>	<b>-</b>	<b>22,460</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>5,110</b>

**Note 6: Inventories**

	<b>2009</b>	<b>2008</b>
	\$	\$
CURRENT		
Finished goods at cost:		
- held for sale	12,205	10,389
- held for distribution	8,613	7,171
	<u>20,818</u>	<u>17,560</u>

**Note 7: Leasehold Improvements, Plant and Equipment**

<i>Plant and equipment</i>		
At cost	80,537	73,187
Less accumulated depreciation	(71,437)	(67,453)
Total plant and equipment	<u>9,100</u>	<u>5,734</u>
<i>Leasehold improvements</i>		
At cost	21,390	21,390
Less accumulated amortisation	(14,863)	(12,487)
Total leasehold improvements	<u>6,527</u>	<u>8,903</u>
Total leasehold improvements, plant and equipment	<u>15,627</u>	<u>14,637</u>

**(a) Movements in Carrying Amounts**

Movements in leasehold improvements, plant and equipment between the beginning and end of each financial year:

Balance at the beginning of the year	14,637	20,797
Additions at cost	8,250	4,740
Disposals	(400)	-
Depreciation expense	(6,860)	(10,900)
Carrying amount at the end of year	<u>15,627</u>	<u>14,637</u>

**Note 8: Intangible Assets**

Website development, at cost	15,955	15,955
Accumulated amortisation	(15,955)	(15,955)
Net Carrying Value	<u>-</u>	<u>-</u>

Movements in intangibles between the beginning and end of each financial year:

Carrying amount at the beginning of the year	-	1,182
Additions	-	-
Disposals	-	-
Depreciation during the year	-	(1,182)
Carrying amount at the end of the year	<u>-</u>	<u>-</u>

**Note 9: Trade and other payables**

	<b>2009</b>	<b>2008</b>
	<b>\$</b>	<b>\$</b>
<b>CURRENT</b>		
Trade payables	53,637	52,822
Employee benefits	43,157	36,508
Unexpended grants	45,883	171,781
Unearned membership income	27,953	27,128
	<hr/> 170,630	<hr/> 288,239
Trade and Other Payables		
- Total current	170,630	288,239
- Total non-current	-	-
	<hr/> 170,630	<hr/> 288,239
Less short-term employees benefits	(43,157)	(36,508)
Less unexpended grants	(45,883)	(171,781)
Less unearned membership income	(27,953)	(27,128)
Less GST payable	(2,801)	(13,085)
	<hr/> 50,836	<hr/> 39,737

**Note 10: Provisions**

	<b>Long Term Employee benefits</b>
	<b>\$</b>
Opening balance at 1 January 2009	12,274
Additional provisions raised during the year	2,341
Amounts used	-
	<hr/> 14,615
Balance at 31 December 2009	<hr/> 14,615

**Analysis of Total Provisions**

Current	-	-
Non-Current	14,615	12,274
	<hr/>	<hr/>

A provision has been recognised for employee entitlements relating to long service leave. In calculating the present value of future cash flows in respect of long service leave, the probability of long service leave being taken is based on historical data. The measurement and recognition criteria relating to employee benefits have been included in note 1 of this report.

**Note 11: Cash Flow Information**

	<b>2009</b>	<b>2008</b>
	<b>\$</b>	<b>\$</b>
<b>(a) Reconciliation of cash flow from operations with comprehensive income</b>		
Comprehensive income for the year	(51,955)	(12,069)
<i>Non-cash flows:</i>		
- Depreciation and amortisation	6,860	12,082
- Loss on Sale of Non current asset	400	-
<i>Changes in assets and liabilities:</i>		
- Decrease / (increase) in receivables	24,434	(13,122)
- (Increase) / decrease in inventories	(3,258)	2,392
- Increase / (decrease) in payables	7,464	(21,576)
- (Decrease) / increase in unexpended grants	(125,898)	77,085
- Increase / (decrease) in unearned income	825	(5,005)
- Increase in provisions	2,341	341
	<hr/>	<hr/>
	(138,787)	40,128

**Note 12: Capital and Leasing Commitments****(a) Operating Lease Commitments**

Payable - minimum lease commitments		
- no later than 12 months	6,600	6,600
- later than 12 months but no later than 5 years	12,650	19,250
- greater than 5 years	-	-
	<hr/>	<hr/>
	19,250	25,850

The photocopier lease commitments are non-cancellable operating leases contracted for but not capitalised in the financial statements with a five-year term.

**Note 13: Contingent Assets and Liabilities**

There were no contingent assets or liabilities that would have a material impact on the financial statements as at 31 December 2009 which require disclosure in this report.

**Note 14: Events After Balance Sheet Date**

There were no events after balance sheet date that would have a material impact on the financial statements which require disclosure in this report.

## Note 15: Key Management Personnel Compensation

	Short-term benefits		Post Employment Benefits		
	Salary & Fees	Super-annuation	Bonus	Other	Total
	\$	\$	\$	\$	\$
<b>2009</b>					
Total Compensation	97,972	8,370	-	-	106,342
<b>2008</b>					
Total Compensation	97,817	7,890	-	-	105,707

## Note 16: Financial Risk Management

The company's financial instruments consist mainly of deposits with banks, local money market instruments, short-term investments, accounts receivable and payable and leases.

The totals for each category of financial instruments, measured in accordance with AASB 139 as detailed in the accounting policies to these financial statements, are as follows:

	2009	2008
	\$	\$
<b>Financial Assets</b>		
Cash and Cash equivalents	277,899	424,936
Trade and other receivables	3,136	27,570
<b>Total Financial Assets</b>	281,035	452,506
<b>Financial liabilities at amortised cost</b>		
Trade and other payables	50,836	39,737
<b>Total Financial Liabilities</b>	50,836	39,737

### (a) Financial Risk Management Policies

The Finance Committee's overall risk management strategy seeks to assist the company in meeting its financial targets, whilst minimising potential adverse effects on financial performance. Risk management policies are reviewed on a yearly basis. These include credit risk policies and future cash flow requirements.

The Company's financial instruments consist mainly of deposits with banks, accounts receivable and payable.

The company does not have any derivative instruments at 31 December 2009.

## Specific Financial Risks Exposures and Management

### (i) Interest rate risk

Exposure to interest rate risk arises on financial assets and financial liabilities recognised at reporting date whereby a future change in interest rates will affect future cash flows or the fair value of fixed rate financial instruments.

At 31 December 2009 the Arts Law Centre of Australia Ltd is not exposed to any material interest bearing liabilities and therefore is not materially impacted by fluctuations in interest rates.

### (ii) Liquidity Risk

Liquidity risk arises from the possibility that the Arts Law Centre of Australia Ltd might encounter difficulty in settling its debts or otherwise meeting its obligations related to financial liabilities. The Arts Law Centre of Australia Ltd manages liquidity by monitoring forecast cash flows and ensuring that adequate cash reserves are maintained.

The table below reflects an undiscounted contractual maturity analysis for financial liabilities.

### (b) Financial Instrument Composition and Maturity Analysis

Cash flows realised from financial assets reflect management's expectation as to the timing of realisation. Actual timing may therefore differ from that disclosed. The timing of cash flows presented in the table to settle financial liabilities reflects the earliest contractual settlement dates.

#### Financial liabilities due for payment

	Within 1 year		1 to 5 years		Over 5 years		Total contractual cash flow	
	2009	2008	2009	2008	2009	2008	2009	2008
	\$	\$	\$	\$	\$	\$	\$	\$
Trade and other payables	170,630	288,239	-	-	-	-	170,630	288,239
Financial liabilities	-	-	-	-	-	-	-	-
	170,630	288,239	-	-	-	-	170,630	288,239

#### Financial assets are expected to be realised as follows

	Within 1 year		1 to 5 years		Over 5 years		Total contractual cash flow	
	2009	2008	2009	2008	2009	2008	2009	2008
	\$	\$	\$	\$	\$	\$	\$	\$
Cash and cash equivalents	277,899	424,936	-	-	-	-	277,899	424,936
Trade & other receivables	3,136	27,570	-	-	-	-	3,136	27,570
	281,035	452,506	-	-	-	-	281,035	452,506
Net inflows on financial instruments	110,405	164,267	-	-	-	-	110,405	164,267

(iii) Credit Risk

The Arts Law Centre of Australia Ltd does not have any material credit risk exposure to any single receivable under financial instruments entered into by the Arts Law Centre of Australia Ltd.

(iv) Price risk

The Arts Law Centre of Australia Ltd is not exposed to any material commodity price risk.

**(c) Net Fair Values**

The net fair values of all financial assets and financial liabilities approximate their carrying amounts. No financial assets and financial liabilities are readily traded on organised markets in standardised form other than listed investments.

The aggregate net fair values and carrying amounts of financial assets and financial liabilities are disclosed in the balance sheet and notes to the financial statements.

**(d) Sensitivity analysis**

No sensitivity analysis has been performed for interest rate risk as the Arts Law Centre of Australia Ltd is not materially exposed to fluctuations in interest rates.

No sensitivity analysis has been performed for foreign exchange risk, as the company is not exposed to fluctuations in foreign exchange.

**Note 18: Related Party Transactions**

There have been no transactions with related parties that require disclosure in this financial report.

**Note 19: Company Details**

The registered office and principal place of business of the company is 43-51 Cowper Wharf Road, Woolloomooloo, NSW, 2011.

**Note 20: Members Guarantee**

The company is a company limited by guarantee. If the company is wound up, the Constitution states that each member of the company is required to contribute a maximum of \$100 each towards meeting any outstanding obligations of the company. At 31 December 2009 the number of members was 486.