

2004

**ARTS LAW CENTRE OF AUSTRALIA**

Annual Report

# Company Particulars

<b>Board</b>	President	The Hon. Justice David Levine RFD (retired 5 December 2004) The Hon. Justice George Palmer (appointed 5 December 2004)
	Deputy President	Vacant
	Honorary Treasurer	Stuart Palmer

<b>Directors</b>	Shauna Jarrett Dr Vivien Johnson Dr Andrew Kenyon Professor Jill McKeough Robynne Quiggin Rena Sofroniou
------------------	---

<b>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 635 Leichhardt NSW 2040
--------------------	---

<b>Auditors</b>	WalterTurnbull Level 17 55 Clarence Street Sydney NSW 2000
-----------------	---

## Arts Law Centre of Australia

ABN 71 002 706 256 / ACN 002 706 256

Level 1, The Gunnery, 43-51 Cowper Wharf Road, Woolloomooloo NSW 2011 Australia  
Phone: +61 2 9356 2566 Fax: +61 2 9358 6475  
artslaw@artslaw.com.au www.artslaw.com.au

# Contents

President's Report	4
Executive Director's Report	5
Council of Patrons	6
Arts Law	7
Vision	
Mission	
Values	
Goals	
Funding	9
Achievements	10
Staff	11
National Legal Advice, Referral and Mediation services	12
Arts Law Subscribers	15
Information and Referrals	16
ART+ law	18
Website	19
Education Program	20
Artists in the Black	21
Advocacy and Law Reform	24
Volunteer and Pro Bono Assistance	26
Governance	30

## Financial Report for Year Ended December 31 2004

Directors' Report
Information on Directors
Auditor's Report
Directors' Declaration
Statement of Financial Performance
Statement of Financial Position
Statement of Financial Cashflow
Notes to the Financial Statements
Detailed Statements of Financial Performance

# President's Report

The Hon. Justice George Palmer

## 2004

As a very recent newcomer to the board of the Arts Law Centre of Australia, I would first like to pay tribute to the outgoing president, the Hon Justice David Levine. David Levine led Arts Law for 10 years and the company will always be indebted to him for his long and successful stewardship. The Board was delighted to appoint him to the Council of Patrons in recognition of his outstanding service to Arts Law.

Arts Law depends upon vital funding support from our principal funding partner, the Australia Council for the Arts and on the ongoing support of the Australian Film Commission, the NSW Ministry for the Arts, Arts SA, Arts WA and the Copyright Agency Limited (CAL). We owe a great debt of gratitude to those bodies. However, it is becoming increasingly important for arts organisations, as well as community legal services, to be creative in the way they go about their fundraising. This involves developing new relationships and partnerships with Government, in the arts and in the legal and business worlds. Given that Arts Law has been providing legal and business advice to the Australian arts community for 21 years and has assisted thousands of artists at different stages of their careers, I am interested in exploring the opportunities for established artists to contribute to Arts Law by participating in events organised by Arts Law to develop wider relationships within the legal and business communities.

I would hope also that Board members themselves can play an active role in raising the profile of the company and increasing our income base so that Arts Law can continue to respond to the ever increasing demand for its services within the Australian arts community.

One such service that Arts Law established in 2004 is Artists in the Black, a service tailored to meet the need of Indigenous artists and their communities. Although the project is still in its pilot phase, Arts Law will be working with its stakeholders to ensure the service continues after the initial two-year funding period.

In my short time on the Board I have been greatly impressed by the enthusiasm and professional dedication of our staff. Arts Law could not continue without their willingness to give more than can reasonably be asked of them. I am also heartened to see the pro bono support provided by the legal community to Arts Law and the Artists in the Black project. Lawyers generously give up their time to provide advice to artists and to assist in educational work; law firms assist by hosting events. I will be interested in exploring other ways in which the legal profession, and perhaps the accounting profession as well, can work with Arts Law to maximise the services we provide to Australia's artists.

Finally I would like to pay warm tribute to Robyn Ayres, the Executive Director, who in her two and half years at Arts Law has succeeded in bringing about a dramatic improvement in the financial position of the company. She has created a stimulating and productive environment for all, staff and Board members alike, and I am delighted to be working with her. Under Robyn's guidance and with a committed Board, ALCA is ready to look forward and meet new challenges.

The Hon. Justice George Palmer  
President

# Executive Director's Report

Robyn Ayres

## 2004

saw a changing of the guard at Arts Law with our long serving President, the Hon Justice David Levine retiring after 10 years of dedicated service to Arts Law. On behalf of the staff and board, I would like to acknowledge the enormous contribution Justice Levine has made to Arts Law over the years. We are also very privileged to be able to welcome our new President, the Hon Justice George Palmer, who is not only a judge of the Supreme Court of NSW but also a renowned composer. So it is an exciting new era for Arts Law.

And what could be more exciting than the establishment and launch of the Artists in the Black service. Artists in the Black is the name of the Indigenous service provided by Arts Law which is staffed by Blanch Lake, the Aboriginal Information Liaison Officer and Samantha Joseph, the Aboriginal solicitor. The aim of the service is to provide Arts Law services in a more accessible way to Indigenous artists and their communities. Artists in the Black was launched on 28 June 2004 and by the end of the year we had provided legal advice and casework services to over 100 Indigenous artists and organisations throughout Australia. In addition Artists in the Black presented 18 educational workshops or seminars in 12 locations, and at 4 Indigenous conferences. In all we reached over 800 people throughout Australia. This included a 2 week tour of regional Western Australia which we were able to do as a result of funding from Dept of Consumer and Employment Protection WA and Copyright Agency Ltd (CAL).

In 2004 Arts Law increased our overall focus on education delivering specialised sessions to artists across most art forms. We also held Arts Law Weeks in Perth and the Northern Territory and over the year delivered educational sessions to over 2000 creative people around Australia.

Arts Law also managed to increase both the number of legal advices provided (to 2410) and the number of face-to-face Legal Advice Night appointments with our panel of specialist lawyers (to 346). This was only possible due to the efforts of the very dedicated staff at Arts Law, both legal and administrative, and whilst singling individuals out is difficult in view of how much everyone does, I would like to acknowledge the support provided by our very capable Administration Manager, Garey Campbell, and the huge pro bono contribution he makes on a weekly basis in order that everything runs as smoothly as possible.

I must say by the end of 2004, we were all pretty exhausted, and it is probably unrealistic to continue to expect staff who are underpaid and overworked to keep doing it for long periods of time. Inevitably this leads to staff turnover at higher than desired levels and is a problem that Arts Law will continue to face. With insufficient core funding, Arts Law must find new projects and other ways to supplement our income that can be exciting but also further stretches the staff. Of course the pro bono contributions of lawyers and law firms around Australia are extremely valuable and also help extend the Arts Law dollar. However I would like to pay special tribute to Middletons who have provided Arts Law with a lawyer one day/week for the whole of 2004.

Robyn Ayres  
Executive Director

# Council of Patrons

2003 marked the 20th Anniversary of the establishment of the Arts Law Centre of Australia by Shane Simpson.

At the celebrations marking this occasion, Arts Law's first president, The Hon. Justice Michael Kirby AC CMG announced the establishment of a Council of Patrons.

The Council is made of persons eminent in the law and the arts, and reflects the standing Arts Law enjoys in the community.

The members of the Council are:

Robyn Archer AO

Jan Chapman AO

Ian David

Peter Garrett AM

David Gulpilil

Frank Moorhouse AM

Professor Sally Morgan

Margaret Olley AO

Peter Sculthorpe AO

William Yang

The Hon Justice David Angel

The Hon Justice Terence Buddin

Julian Burnside QC

The Hon Acting Justice Jerrold Cripps

The Hon Elizabeth Evatt AO

The Hon Justice Malcolm Gray RFD

The Hon Justice Michael Kirby AC CMG

The Hon Justice David Levine RFD

The Hon Acting Justice Jane Mathews

Shane Simpson

The Hon Justice Antony Whitlam

# Arts Law

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 with the support of the Australia Council in 1983 to provide specialised legal and business advice and referral services, professional development services and advocacy for artists and arts organisations.

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.

## Vision

To foster a society which promotes justice for artists and values their creative contribution.

## Mission

To provide practical, specialist legal services and resources, (including advocacy, publications and education), to artists and the cultural sector.

## Values

In achieving our vision, the work of Arts Law is guided by the values of excellence, accessibility, empowerment and integrity.

## Goals

The goals of Arts Law as established in the most recent business plan of the organisation are:

- **Legal Advice and Referrals**

To provide accessible, timely and practical legal advice to artists and arts organisations, including referrals.

- **Information and Referrals**

To provide practical and reliable information, which is accessible through a range of means at low or no cost.

- **Advocacy and Law Reform**

To provide targeted, quality advocacy on law and policy reform, for the benefit of the creative sector.

- **Evaluation**

Regular evaluation of all services to ensure consistent and effective delivery of all services, which are valued by the arts sector and meet their needs.

- **Finance and Administration**

Efficient and effective administrative and financial systems, which contribute to the sound management of Arts Law.

- **Communications and Marketing**

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

- **Physical resources**

To maintain the office, furniture and equipment in order to meet the needs of the organisation.

- **Human Resources**

To sustain an efficient and committed team through a collaborative working environment.

- **Governance**

To ensure that Arts Law has an experienced, committed and effective Board.

- **Revenue Generation**

To maximise the ability of Arts Law to generate income.



# Funding

The Arts Law Centre of Australia (Arts Law) is a non-profit company limited by guarantee, incorporated under the Incorporations Law.

Arts Law gratefully acknowledges the financial assistance and investment of:

- The Commonwealth Government through the Australia Council, its arts funding and advisory body
- The New South Wales Government through the Ministry for the Arts
- The Australian Film Commission
- Arts SA
- The State of Western Australia through Arts WA in association with the Lotteries Commission

Arts Law was able to establish the Artists in the Black project through funding provided by:

- Commonwealth Government through the Australia Council, its arts funding and advisory body

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

- Copyright Agency Limited (CAL) for its grant to run the national program of Arts Law Weeks
- Middletons for the one day/week secondment of lawyer Naomi Messenger to Arts Law
- Insurance Australia Group (IAG), the New South Wales Government through the Ministry for the Arts, and Stuart Leslie for funding the 2nd edition of the Arts Insurance Handbook
- WalterTurnbull for pro bono accounting advice
- Steven J Miller & Co for the continued provision of advice and assistance on tax related matters to Arts Law legal officers, to assist in their education, advisory and advocacy work
- Dept of Consumer and Employment Protection WA for sponsorship of Artists in the Black WA tour.
- Lexis Nexis for sponsoring Arts Law's subscription to their online publications.
- Law and Justice Foundation of NSW for funding support of Artists in the Black publications
- NSW Film and Television Office for funding support of legal briefing for short filmmakers
- Melbourne International Film Festival through the Film Victoria funding support for Law for Filmmakers seminar.

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.



# Achievements

## 2004

- Provision of 2410 telephone legal advices by Arts Law legal staff for the period January to December 31 2004
- Provision of 346 face-to-face legal advice night consultations by pro bono panel lawyers for the period January to December 31 2004
- The Arts Law website has become increasingly popular, receiving 799,436 hits in 2004
- Ongoing partnering by Middletons with their commitment of lawyer, Naomi Messenger, to Arts Law for 1 day/week throughout 2004
- Maintenance of a panel of 194 pro bono lawyers willing to provide advice to clients of the Arts Law
- Launch of Arts Law's Artists in the Black service at the Australia Council on 28 June 2004
- Partnering by WalterTurnbull in the provision of pro bono tax and accounting advice (15 minutes free telephone advice) to clients referred by Arts Law
- The breadth of the national coverage of the Legal Advice Night service with lawyers providing pro bono services in Sydney, Melbourne, Adelaide, Hobart, Canberra, Darwin, Alice Springs and Perth.
- Arts Law Weeks held in Western Australia & the Northern Territory
- Education program reached over 2000 participants in six states and territories, of which more than 800 were Indigenous.
- The inaugural Arts Law Print Commission, a limited edition of 25 prints by Perth artist Hannah Jones, was awarded to lawyers who had made a significant pro bono contribution to Arts Law during 2004.

# Staff

Executive Director	Robyn Ayres
Senior Solicitor	Sally Hanson (commenced March 2004)
Solicitor	Katherine Giles (commenced August 2004)
Solicitor	Ant Horn
Aboriginal Solicitor	Samantha Joseph
Administration Manager (Part time)	Garey Campbell
Financial Administrator (Part time)	Mary Egan
Aboriginal Information/Liaison Officer	Blanch Lake
Administrative Officer	Adori Bubble
Administrative Officer	Hannah Cox (commenced May 2004)

## Other Staff

Solicitor	Peter Carstairs (until July 2004)
Administrative Officer	Amanda Macri (until April 2004)



2004 Arts Law Staff (clockwise from bottom left)

Hannah Cox, Ant Horn, Katherine Giles,  
Adori Bubble, Blanch Lake, Garey Campbell,  
Sally Hanson, Robyn Ayres, Samantha Joseph

# National Legal Advice, Referral and Mediation Services

The focus of all of the work of Arts Law is to ensure that the creative and cultural sector of Australia have access to practical, specialist legal services and resources.

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, passing off, trade practices, confidentiality, employment, defamation, business structures, privacy, insurance, censorship and taxation.

Arts Law provides a free national telephone legal advice service to the arts community and, to Arts Law subscribers, extended legal advice service, national face-to-face legal advice Legal Advice Nights and pro bono referrals. Arts Law also provides referrals to our panel of mediators on a fee for service basis.

In 2004 the number of occasions on which telephone advice was provided was 2401, an increase of 10.4% (226 advices) over the previous year's 2175.

The number of telephone advices is set out in Tables 1 and 2 below, being:

**Table 1: Telephone Advice by Arts Sector**

Telephone Advice	2003	2004
Film / Video/TV	385	397
Community Arts	57	69
Literature	262	256
Performing Arts	212	154
Music	492	354
Multi Media	60	57
Visual Arts and Crafts	707	549
Design	-	24
Miscellaneous	-	541
<b>TOTAL</b>	<b>2175</b>	<b>2401</b>

**Table 2: Telephone Advice by State/Territory**

Telephone Advice	2003	2004
ACT	62	65
NSW	1251	1335
NT	24	49
NZ	-	2
OH	-	1
QLD	114	128
SA	98	119
TAS	80	65
VIC	398	438
WA	148	199
<b>Total</b>	<b>2175</b>	<b>2401</b>

## Range of Problems

Arts Law deals with a significant number of legal problems presented by each caller.

Table 3 sets out the number and range of legal problems dealt with in 2004.

**Table 3: Legal Advice by Category**

<b>Range of Legal Problems</b>	<b>2004</b>
Administrative Law	4
Agency	26
Bailment	30
Business Name	34
Business Structure incl. assns, charities, corps, etc	67
Business Structure: Partnership	45
Censorship & Obscenity	23
Character Merchandising	4
Commercial Lease	3
Confidentiality	66
Contract: General	669
Contract: Infringement	87
Contract: Review	278
Copyright: Collecting Societies	94
Copyright: General	758
Copyright: Infringement	265
Copyright: Licensing	445
Debt	85
Defamation	106
Employment incl. discrim, super, workers comp, etc	49
Estate Planning/Wills	8
Funding incl. government, private, etc	26
ICIP	60
Insolvency	4
Insurance	81
IP: Design Registration	31
IP: Patent	12
IP: Trade Mark	89
Local Government	4
Mediation	10
Moral Rights	101
Other	168
Performers' Rights	47
Personal Property	12
Privacy	30
Remedies	11
Sale of Goods incl. Droite de suite, etc	4
Tax incl. GST, income, sales, stamp duty, etc	48
Torts incl. negligence, trespass, etc	13
Trade Practices & Passing Off incl. misleading, etc.	112
<b>TOTAL</b>	<b>4009</b>

## Legal Advice Nights

Subscribers to Arts Law can attend Legal Advice Nights for face-to-face advice, or telephone consultations for up to two hours with experienced specialist lawyers who are on Arts Law's panel. Lawyers from large corporate and boutique firms, as well as government and in-house lawyers, volunteer for the national Legal Advice Nights panel. In 2004 Arts Law had an extensive national panel of 194 pro bono lawyers.

## Coverage

Face-to-face Legal Advice Nights (LANs) operate in Sydney, Melbourne, Adelaide, Hobart, Perth, Darwin, Alice Springs and Canberra. Subscribers in other cities and regional areas can access extended telephone advice with lawyers on our panel.

In 2004 the number of Legal Advice Night face-to-face consultations provided was 346

Table 4 shows the number of Legal Advice Night consultations by State and Table 5 by Arts sector.

**Table 4: LANs by State/Territory**

Legal Advice Nights	2003	2004
ACT	5	9
NSW	111	204
NT	2	15
NZ	-	1
QLD	1	7
SA	7	17
TAS	10	7
VIC	30	54
WA	14	32
<b>TOTAL</b>	<b>180</b>	<b>346</b>

**Table 5: LANs by Arts Sector**

Legal Advice Nights	2003	2004
Broadcasting	-	2
Film / Video/TV	36	60
Community Arts	5	17
Literature	17	53
Performing Arts	16	17
Music	56	88
Multi Media	5	11
Visual Arts and Crafts	45	78
Miscellaneous	-	18
<b>TOTAL</b>	<b>180</b>	<b>346</b>

# Arts Law Subscribers

To access the assistance available from Legal Advice Nights individuals or organisations must become Arts Law subscribers. Subscribers are also entitled to discounts on all of Arts Law publications and receive the quarterly newsletter, ART+Law.

**Table 6: ALCA subscribers by STATE & TYPE**

State	Totals	Commercial	Individual	Non Profit
ACT	33	2	22	9
NSW	482	20	391	71
NT	27	-	6	21
QLD	53	3	37	13
SA	51	1	26	24
TAS	21	-	17	4
VIC	144	3	111	30
WA	100	3	71	26
<b>TOTALS</b>	<b>911</b>	<b>32</b>	<b>681</b>	<b>198</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.

# Information and Referrals

## 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 continual contact with artists demonstrates the areas in which information sheets are needed. The information sheets are made freely available on the website, enabling arts practitioners from throughout Australia to easily access up-to-date information. The information sheets cover the following topics:

- Agency Agreements: taking care of business
- Business Name Protection
- Classification and Censorship
- Contracts: An Introduction
- Copyright Collecting Societies
- Debt Recovery: Letter of Demand (all States/Territories)
- Debt Recovery: Small Claims Procedure (all States/Territories)
- Defamation
- Mediation Service
- Protecting Your Ideas: the Law of Confidential Information with letter of confidentiality
- Superannuation and Contract for Services
- Trademarks
- Unauthorised Use of Your Image
- Protecting Your Design
- Privacy and the Private Sector



## Checklists and Guides

The following checklists and guides are available free Arts Law subscribers:

Artist-Gallery Checklist

Business Partnership Checklist

Music Management Checklist

Music Publishing Checklist

Music Recording Agreements Guide

Sponsorship Agreements Guide

## Sample Contracts

Arts Law also produces a range of sample contracts, which come with explanatory notes. There are currently 33 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.

## New Publications

In 2004 Arts Law produced two new Sample Agreements:

- Cast & Crew Agreement
- Cast & Crew Agreement (Deferred Fees)

### Where There's a Will

Arts Law and the National Association for the Visual Arts (NAVA) collaborated to produce the estate planning guide for artists, available electronically on the website

### The Arts Insurance Handbook 2nd Edition

Arts Law completed the revised text for this popular book, which will be published and available early 2005

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

In 2004 ART+law covered topics including:

- Public Liability Insurance for Artists
- Copyright Law - Protection of Ideas
- Directors Copyright
- Australia – United States Free Trade Agreement
- Copyright in Devised Theatre
- Registration of Trademarks
- Child Employment in NSW
- Copyright - Use of Old Films
- Music Licences – Business
- Publishing Agreements

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

## External Publications

Arts Law regularly contributes articles to legal and arts periodicals including the Media and Arts Law Review, Inside Film, NAVA and Artsource WA Newsletters, ASDA newsletter, and the Alternative Law Journal.

# Website

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 2004 there were 799,436 visits to the website.

<b>Hits &amp; Circulation</b>	<b>2003</b>	<b>2004</b>
January - March	166,028	184,891
April - June	196,861	212,381
July - September	192,093	213,324
October - December	169,191	188,840
<b>TOTAL</b>	<b>724,173</b>	<b>799,436</b>

In June Arts Law received funding through the Australia Council to upgrade the website, and include an e-commerce facility. It is proposed the new site will be launched early 2005.

# Education Program

In 2004 Arts Law's legal staff presented an extensive program of lectures, workshops and seminars on topical issues concerning law and the arts as well as delivering papers at a range of conferences. In all Arts Law reached over 2249 creative people around Australia.

## Lectures and Seminars

Arts Law continued to run its lecture program, presenting at the following universities and art schools during the year:

- University of Technology Sydney: Master of Arts Administration subject - Law and the Arts
- NSW TAFE Enmore: Copyright/Animation – Design students
- University of Technology Sydney: Visual Communications/Design students
- National Arts School
- NSW Conservatorium of Music: Music Performance & Composition Students
- KVB College: Visual Communications Students
- University of Western Sydney: Performance Students
- Australian National University, Canberra: School of Art Students and Staff

Lectures covered topics such as copyright and design law, contracts, moral rights, obscenity laws, defamation, employment issues, business issues such as superannuation, tax and insurance and other issues specific to the participants needs. Most of these lectures are provided on a fee-paying basis.

## National Seminar Program

In addition to the lecture series, Arts Law provided an extensive national seminar program, including the following events:

- Australian Film Commission Roadshow; Canberra, Brisbane, Perth, Adelaide - June
- SAMAG; Sydney - June
- Business Forum; Canberra - June
- Melbourne International Film Festival; July
- Fresh Arts Dubbo; August
- Illawarra Performing Arts Centre; Wollongong - August
- Artists in the Black WA Roadshow; September 13 to 27
- Deadly Arts Business Conference; Melbourne - September 24
- Arts Law Week West Australia; Perth - September 26 to October 1
- Arts Law Week Northern Territory; October 11 to 15
- ASA Writers & the Law; Sydney - November 3
- Artists in the Black; Adelaide - November 25 & 26
- Short Film Filmmakers Briefing; Sydney - December 6
- ANKAAA; Northern Territory - December
- Artists in the Black; Darwin - December

Many of the events were delivered in partnership with other organisations, which assisted with the promotion, and many of the events were free or low cost. Arts Law notes that the national educational program has been made possible through a funding partnership with the Copyright Agency Limited.

Arts Law also presented at a range of conferences throughout the year, delivering 8 presentations at 7 conferences which had an overall attendance of 780 participants.

# Artists in the Black

In 2004 Arts Law received funding from the Australia Council to trial an Indigenous Project to improve service delivery to Indigenous artists and their organisations across Australia. The project is called Artists in the Black and aims to increase Indigenous access to advice and information about their legal rights on all arts related matters. The project was launched on 28 June 2004, is currently in its pilot stage and will be trialled for 2 years.

Arts Law has employed 2 Aboriginal staff, Samantha Joseph, in the lawyer's position and Blanch Lake, as the information/liaison officer. To date the focus of the project has been

- Providing direct legal advice to individual Indigenous artists on their arts law problems;
- Providing information and education about arts law issues to ensure Indigenous artists are informed about their legal rights

Artists in the Black is designed to:

- Address the structural disadvantages that some Indigenous people may encounter in having their needs for legal advice, information and education met;
- Be non-threatening and responsive to the special circumstances of some Indigenous artists and their communities;
- Consult with Indigenous artists and organisations as to the best methods of delivering legal advice and information services to Indigenous artists;
- Develop the resources needed by Indigenous artists and organisations in response to consultations;
- Develop the skills of Indigenous staff employed on the project (legal and other) so they become a future resource for Indigenous artists and their communities;
- In response to the feedback received from Indigenous artists, organisations and communities and other stakeholders recommend a model to provide ongoing access to legal advice, information and education services.

## Reference Group

A Reference Group has been established from the Indigenous community to provide support and guidance throughout the course of the project. The current members of the group are:

- Senator Aden Ridgeway NSW
- Robynne Quiggin NSW Chair
- John Harding Vic
- Carol Innes WA
- Kevin Dolman WA
- Irene Watson SA
- Karen Mills NT

The Reference Group met 3 times in 2004 have provided feedback on issues such as promotion of educational workshops, development of educational materials and the plan for the service for 2005.

## **Legal Service Provision**

The Indigenous staff work with the other Arts Law staff to provide enhanced services to the Indigenous community. Whilst the service was only launched at the end of June, in 2004 over 100 legal advices, face-to-face consultations and casework services were provided. The AITB staff have liaised with other legal and arts organisations, particularly Indigenous organisations, to raise awareness about the services provided under the project and to ensure that appropriate referrals are made to and from the project.

AITB staff have full access to the pro bono panel lawyers and referral lawyers that Arts Law already has in place. Given the need for ongoing casework services in some matters we have also been able to put in place pro bono lawyers willing to provide this extended service. Firms that have made an additional commitment to the project are:

- Allens Arthur Robinson
- Baker and McKenzie
- Gilbert and Tobin
- Jackson McDonald
- Michael Frankel & Co

The sample agreements developed by Arts Law are a very useful resource for artists and the art community. In 2004 AITB worked with the Federation of Aboriginal and Torres Strait Islander Languages (FATSIL) to develop a contract for use in Indigenous language projects. AITB will examine the need for the development of further sample agreements particularly in relation to Indigenous Culture and Intellectual Property (ICIP).

## **Public Interest Casework**

The Indigenous lawyer in consultation with Arts Law's senior lawyer and the Executive Director identifies cases requiring ongoing casework. These cases have a public interest component that will benefit the Indigenous community more broadly, particularly in further recognition of ICIP issues. To date there has been ongoing casework in six matters.

## **Subscription Fees**

Arts Law is conscious of the fact that many Indigenous artists needing our service may not be able to pay the subscription fees for extended services. For the duration of the pilot phase (to the end of 2005) Arts Law is subsidising the subscription for Indigenous artists and organizations.

## **Development of Accessible Educational Materials about Artists Rights**

Arts Law developed information sheets which were trialed during the WA trip in September 2004. The information sheets developed and distributed were:

- Copyright
- Moral rights
- Indigenous Culture and Intellectual Property
- Licensing
- Contracts
- Business structures
- Governance
- Certificates of Authenticity

Arts Law is now working with Streetwise Publications to develop a coloured and illustrated version of four of the information sheets. These will be published in April 2005.

## **Delivery of education program to empower Indigenous creators**

In 2004 AITB developed and delivered an education program to Indigenous artists and their organisations across Australia. The sessions were held in 16 locations and over 800 participants attended. The Artists in the Black workshops took place in the following locations:

Melbourne (12-13 February and 23-24 September)  
Townsville (17-18 June)  
Western Australia (12-24 September)  
Northern Territory (11-15 October 2004, 18-19 November, 1-3 December)  
South Australia (25-26 November 2004)

AITB has worked with local organisations with the local expertise to ensure the sessions were appropriately targeted and promoted. Although there have been many organisations involved we would like to acknowledge the partnerships with

- Koori Business Network Victoria
- Dept of Consumer and Employment Protection WA
- Artsource WA
- Arts WA
- Pilbara Arts Craft and design Aboriginal Corporation (PACDAC)
- FATSIL
- ANKAAA NT
- Papta Warra Yunti Regional Council SA

Topics Covered At Workshops

- Copyright
- Moral Rights
- Indigenous Cultural and Intellectual Property
- Contracts and Licensing
- Business structures and
- Governance

We also acknowledge the funding support of the Copyright Agency Limited (CAL) and DOCEP for making the educational program possible.

## **Advocacy**

AITB, although busy providing legal advice and educational services, has also had input and provided advice to Indigenous organisations and Government on the following issues:

Indigenous Culture and Intellectual Property, including communal moral rights

- Commonwealth funding agreements for Indigenous organisations.
- Proposed legislation on Indigenous communal moral rights
- Better recognition of ICIP under Australian law

Resale royalties

- Arts Law, together with advocacy partners, is seeking an introduction of resale royalties in Australia.

Given the success of Artists in the Black to date Arts Law will be seeking funding to ensure the continuation of the service beyond its pilot phase.

# Advocacy and Law Reform

The advocacy goal of Arts Law is to provide targeted, quality advocacy on law and policy reform, for the benefit of the creative sector. This is done through

1. Identification and prioritisation of issues affecting the arts community
2. Research and making of submissions
3. Developing relationships and with the Government, media, arts sector and other relevant bodies;
4. Lobbying to influence the decision making of Government and other bodies.

## Advocacy Subcommittee

The Arts Law advocacy subcommittee comprised of Board members (Vivien Johnson, Jill McKeough, Andrew Kenyon and Robynne Quiggin) and staff members met on 2 occasions in 2004 and legal staff met another 5 times.

The Advocacy subcommittee worked in accordance with its 2004 Advocacy Plan.

During the year Arts Law responded to a range of issues that arose as well as continuing with the planned advocacy work.

## Submissions

Arts Law made the following submissions to Governments and other bodies:

- to the Board of Taxation on the non commercial loss provisions in the Income Tax and Assessment Act;
- to Government on the introduction of Resale Rights (in partnership with Australian Copyright Council, NAVA and Viscopy)
- to JSCOT and as a member of the Australian Coalition for Cultural Diversity to Government on the US Free Trade Agreement
- to the Attorney General on Crown copyright
- to ACCC on APRA's arrangements
- to CAL on its distribution policy
- to Screenrights on its distribution policy
- to ATSIS on Indigenous funding agreements
- to the Australian Tax Office to finalise the public ruling on the meaning of carrying on a business as a professional practising artist for the purposes of the Income Tax and Assessment Act (in partnership with NAVA on behalf of the arts community).



## Advocacy Partnerships

Arts Law has worked with a number of other organisations and individuals in order to maximise the effectiveness of the advocacy work of the centre. Significant partnerships in 2004 were with

- NAVA on behalf of the arts community on the taxation issues;
- Australian Copyright Council, NAVA and Viscopy on the introduction of a resale right;
- Australian Coalition for Cultural Diversity, comprised of key membership and service organisations across the cultural sector on need to ensure that the Free Trade Agreement with the US does not jeopardise culture.

## Lobbying

To further the advocacy work of Arts Law, legal staff participated in meetings with the following Government Departments, Ministers and stakeholders:

- Meeting with the Rulings Panel of ATO on draft public ruling in partnership with advocacy partners National Association for the Visual Arts (Tamara Winikoff), pro bono tax consultants Judy Sullivan and Jill Savage of Mallesons Stephen Jaques, Delia Browne and staff of DCITA.
- Meeting with advisor to Darryl Williams, Minister for Information Technology and the Arts.
- Meetings on Indigenous communal moral rights: - with Indigenous stakeholders
- Meetings with Indigenous organisations and representatives from ATSIS on Government funding agreements.

## Pro Bono Support

Arts Law acknowledges the significant pro bono assistance provided to Arts Law and NAVA by tax consultants, Judy Sullivan and Jill Savage of Mallesons Stephen Jaques, as well as the ongoing support of lawyer Delia Browne.

# Volunteers and Pro Bono Assistance

Volunteers and pro bono lawyers are integral to the provision of Arts Law services. The Arts Law volunteers perform the following valuable tasks:

## Volunteer Lawyers

Arts Law receives considerable pro bono assistance from the legal profession in addition to the national face-to-face legal advice night 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 reviewing our sample contracts and other publications.

Examples of such assistance in 2004 include:

- George Paramanathan provided significant support in co-teaching of the UTS Masters subject Law and the Arts.
- Judy Sullivan and Jillian Savage of Mallesons Stephen Jaques continued to provide support in the advocacy work on tax issues.
- Simpson's Solicitors ongoing assistance in the updating and review of Arts Law sample contracts in the visual arts area.
- Middletons ongoing secondment one of their lawyers, Naomi Messenger, to Arts Law to provide telephone legal advice and other services one day per week.
- Freehills for hosting of the ASA Arts Law Writers seminar.
- Gilbert and Tobin for additional casework support to Artists in the Black.

## Panel 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 2004 Arts Law had a panel of 194 lawyers throughout Australia ranging from large corporate law firms, government and in-house counsel, boutique law firms and individual practitioners. The Legal Advice Night 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.

Arts Law thanks the law firms and legal practitioners who participated in the Arts Law national face-to-face Legal Advice Night program and other pro bono work and advice.

### Adelaide

Sam Golding  
Bill Morrow  
John Kelly

Clayton Utz  
Norman Waterhouse  
Kelly & Co

### Canberra

Gareth Benson  
Justin Bernau  
Hugh Bradley  
Jamie Doran

Bradley Allen Solicitors  
Clayton Utz  
Bradley Allen Solicitors  
Clayton Utz

## Hobart

Susan Larsen  
Jason Samec

Dobson Mitchell & Allport Lawyers  
Piggott, Wood & Baker

## Melbourne

Jeff Bergmann  
Marcus Fowler  
Stephen Grant  
Katerina Klaric  
Inge Lauw  
Stefan del Monaco  
David Vodicka  
Dr Mark Williams  
Elizabeth Wright

Allens Arthur Robinson  
Shock Records  
Nanscawen Grant  
Stephens Lawyers & Consultants  
Madgwicks Lawyers  
Rigby Cooke Lawyers  
Media Arts Lawyers  
Barrister & Solicitor  
Mushroom Group

## Perth

Ian Booth  
Scott Ellis  
Stephanie Faulkner  
Jamie Lyford  
Timothy Nelson  
Joan Peters  
David Stewart  
Michael Tucak

Freehills  
Jackson McDonald  
Jackson McDonald  
Healy Pynt  
  
Minter Ellison  
Tottle Christensen

## Sydney

Mathew Alderson  
Charles Alexander  
Morris Averill  
Elizabeth Blackford  
Prudence Boshier  
Melanie Bouton  
Tracy Brook  
Delia Browne  
Andrew Cardell-Ree  
Alec Christie  
Kathryn Conway  
Tureia Corr  
Gemma Dalglish  
Vanessa Darby  
Khai Dang  
Jerry Dohnal  
Michael Easton  
Kathryn Everett  
Anna Flavhin  
Michael Frankel  
Dragan Gasic  
Cara Ghassemian  
Robert Gibson  
Kate Gilchrist

Gray & Perkins  
Minter Ellison  
  
Baker & McKenzie  
Freehills  
Macmillan Publishing Australia  
Minter Ellison  
Allens Arthur Robinson  
Middletons  
Minter Ellison  
SBS  
Mallesons Stephen Jaques  
CUNA Mutual Group  
Blake Dawson Waldron  
Gilbert & Tobin  
Brett Oaten Solicitors  
Freehills  
Baker & McKenzie  
Michael Frankel & Co  
Barrister  
Clinch Neville Long  
Allens Arthur Robinson  
ABC Legal Services

## Sydney

Craig Glazier	Canon Australia
Sean Gleeson	Baldwin Shelston Waters
Matthew Hall	Schwab Attorneys
Calum Henderson	Deacons
David Holland	Baker & McKenzie
Peter Karcher	Gray & Perkins
Prashant Khera	Minter Ellison
Renee Krikorian	Henry
Peter Le Guay	Cowley Hearne
Raena Lea-Shannon	Michael Frankel & Co
Jim Lennon	Acuiti Legal
John MacPhail	Baker & McKenzie
Ross McLean	Baker & McKenzie
Bronwyn Maynard	Harmer's Workplace Lawyers
Sally McCausland	SBS
Kathy Merrick	Henry Davis York
Naomi Messenger	Middletons
Clare Mirabello	TressCox Lawyers
Michelle Momdjian	Freehills
Peter Mulligan	Henry Davis York
Jules Munro	Simpson Solicitors
Maureen Noonan	
Danh Nguyen	Westpac Banking Corporation
David Orwell	Brett Oaten Solicitors
Zero Partos	Barrister
Jocelyn Paterson	Phillips Fox
James Pomeroy	Gilbert+Tobin
Roone Richardson	Roone Richardson Lawyers
Gabriella Rubagotti	Baker & McKenzie
Madeleine Shaw	Allens Arthur Robinson
Abigail Shelley	Gilbert+Tobin
Gulley Shimeld	Beyond Productions
Shane Simpson	Simpson Solicitors
Adam Simpson	Simpson Solicitors
Barry Stewart	Ebsworth & Ebsworth
Erica Taylor	Habu Entertainment
James Talbot	Southern Star Group
Simone Tierney	Phillips Fox
Deborah Tobias	Hillman Laxon Tobias
Anisha Travis	Gilbert + Tobin
Stephen Watt	Freehills

## Referral Services

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.

## Legal Advice Night Assistants

Arts Law plays a key developmental role via our volunteer legal assistant program. In Melbourne 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 2004 there were 27 LAN assistants, and our gratitude extends to:

Sydney	Melbourne
Nathan Archibald	David Hamilton
Serena Armstrong	Giles Hardie
Desiree Baldacchino	Daniel Hill
Clint Bell	Samantha Joseph
Warwick Burton	Amanda Macri
Alison Cook	Miriam Martin
Vanessa Darby	Caroline Roppolo
Sharyn Davis	Marcello Sarponaro
Kate Erman	Gulley Shimeld
Claire Featherston	Rod Smith
Katherine Giles	Rebecca Sullivan
Manisha Goyle	Livia Fong Yan

## 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 2004 there were 7 day time volunteers, and our thanks go to:

Kate Andrews	Jacqua Page
Serena Armstrong	Seth Richardson
Wei Ling Chan	Rhonda Soengkoeng
Alison Manville	

## Student Placements

Arts Law has a well-established student placement program with the law school at University of Sydney. 2004 saw the implementation of a similar program with University of New South Wales. 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 2004 Arts Law had 4 student placements.

Kari Lancaster	(Arts Management – University of South Australia)
Alison Manville	(University of Sydney)
Jacqua Page	(University of New South Wales)
Rebecca Ward	(University of Sydney)

# Governance

The overarching governance goal of Arts Law is to ensure that it has an experienced, committed and effective board. The governance objectives are:

1. To optimise organisational performance
2. To sustain an effective and motivated Board, and
3. To provide accountable governance

In 2004 the following subcommittees met regularly to assist Arts Law in its work:

- Advocacy Subcommittee      2 Staff/Board Meetings  
5 Staff Meetings  
Board representatives: Vivien Johnson  
Andrew Kenyon  
Jill McKeough  
Robynne Quiggin
- Finance Subcommittee      4 meetings  
Board representatives: Stuart Palmer (Hon. Treasurer)  
Shauna Jarrett
- Board Planning Day      Saturday December 4  
All Board members were in attendance  
with the exception Andrew Kenyon (Melbourne)  
Robyn Ayres      Executive Director  
Sally Hanson      Senior Solicitor  
Garey Campbell      Administration Manager  
Bob Taylor      Invited Guest