

Staff Recruitment

George Villaflor has joined the Native Title Research Unit as a Project Officer. George comes from Darwin and has spent time in Cairns and the Cape York. He has a background in law and community consultation.

Serica Mackay will commence as the Unit's Native Title Research Officer. Serica is near the completion of an Arts/Law degree at ANU. Lara Wiseman will also be joining the Unit as a Research Assistant. Lara's last ap-

pointment was with Aboriginal Affairs Victoria

Glen Kelly will be conducting a 3-month contract within the unit. The focus of his work will be the relationship between native title and autonomy and the representation of non-traditional owners. Glen previously worked in Perth as the WA Aboriginal Native Title Working Group co-ordinator. Donna Oxenham is currently on a 3-month AIATSIS Indigenous scholars program. She is working on her Masters thesis on the Indigenous community in Shark Bay, Western Australia.

UPCOMING EVENTS:

Native Title: Courts to Canvas

The power of indigenous art as cultural evidence will be explored in a landmark forum being held at the National Museum of Australia next month.

The free two-day forum is a collaboration with AIATSIS and ANU and coincides with the Canberra launch of the Native Title Business exhibition, a collection of 50 contemporary indigenous works which promote understanding and reconciliation on native title.

The National Museum's Aboriginal and Torres Strait Islander Program director, Margo Neale, says the exhibition expands on the program's themes of country, identity, spirituality and community.

"The forum is about actively contributing to the debate of issues of critical contemporary importance. Events such as this further strengthens the National Museum's relationship building with key academic institutions and Indigenous community bodies," Ms Neale said.

The Power of Cultural Evidence forum is being held from 2-5pm on Thursday, 11 December and 8.45am-5.30pm on Friday, 12 December.

Participants will examine the meaning of native title; the role of indigenous histories, art and museums in the native title process; and the benefits and problems arising from Aboriginal efforts to retrieve lost histories and culture.

Dr Lisa Strelein from AIATSIS' Native Title Research unit will convene a community workshop on Thursday. Indigenous and non-indigenous speakers will explore current legal developments, the ways law and culture inform each other, the role of art in contributing to cultural identity and managing indigenous disputes and agreements.

The other opening day session looks at the Murray Darling Basin Outreach Project, presented by Yorta Yorta Woman Monica Morgan and Dr Ruth Lane.

Friday's speakers include historians Professor Ann McGrath and Dr Gordon Briscoe, artists Fiona Foley and Bronwyn Bancroft, sociologist and curator Dr Vivien Johnson, museum professional Phil Gordon, Native Title mediator Dr Gaye Sculthorpe and lawyer David Ritter.

Bookings for the free forum are being taken on 02 6208 5021.

Meanwhile, the Native Title Business exhibition is presented by Bundaberg's Gurang Land Council and toured by the Regional Galleries Association of Queensland. The exhibition is on show in the National Museum's Lower First Australians Gallery until 1 February 2004. According to Joan Winter "the main aim of Native Title Business is to promote understanding and reconciliation on native title, land and water rights in Australia".

The works range in style from traditional to contemporary and include ceramics, printmaking, painting, drawing, sculpture, mixed media, photography and fibre art. Produced between 1984 and 2002, they have been created by a

range of artists from those working in remote desert communities who did not meet a white man until they were adults, to urban artists who have never seen their traditional lands.

FEATURES

Consultation on the Definition of a Charity

By Serica Mackay

Over the past eighteen months, the Native Title Research Unit has received a number of inquiries regarding the tax status of native title bodies. Although traditionally these bodies have been regarded as charities or public benevolent institutions (PBI's) for tax purposes, recent decisions of the Australian Tax Office and the Supreme Court (Northern Territory) have produced conflicting interpretations of the legislation and the common law.

Coinciding with this, the Federal Government has recently released the Draft Charities Bill in an attempt to codify the common law on the definition of charities. The Draft Charities Bill is part of the Government's response to the Report of the Inquiry into the Definition of Charities and Related Organisations. The Board of Taxation, an independent, non-statutory body established to advise the government on the development and implementation of taxation legislation, sought submissions on the workability of the draft legislation.

AIATSIS, the Central and Northern Land Councils and the South West Aboriginal Land and Sea Council, (SWALSC), have entered a submission to the Board of Taxation's consultation on the definition of a charity. The AIATSIS submission is intended to highlight and discuss points of the draft bill that would be relevant to all native title bodies.

Although the Draft Charities Bill does not attempt to change the law (it seeks to put the existing common law definition of charity into legislative form), there are problems with the common law definition that will carry

over into the legislative definition and these require comment.

Briefly, the NTRU discussed five main issues relevant to native title bodies in relation to the Draft Charities Bill. First, the Draft Charities Bill contains a specific reference to political advocacy as a disqualifying purpose where it is more than ancillary to the dominant purpose of the charitable entity. However, any number of activities may be considered a disqualifying purpose where they are more than ancillary to the dominant purpose of the charity and it is unnecessary to specifically mention political activity in the legislation. This is particularly concerning for Indigenous land councils and native title bodies who often act as representatives of community interests and comment on government policy and legislation. The inclusion of public advocacy as a disqualifying purpose may excessively discourage entities from seeking charitable status or commenting on policy or law even where it is in the interests of the people they seek to help.

Second, the inclusion of a charitable purpose that is 'for the benefit of the community' is desirable as it is at present relatively undefined and open ended. In particular, this charitable purpose may be of benefit to native title bodies who could argue that the restoration and management of land is 'for the benefit of the community'.

Third, the requirement that the dominant purpose of a charity be altruistic in order to satisfy the public benefit test may require an emotional and obligational distance between the donor and the beneficiary. This may be a problem for Indigenous charitable entities where an emotional or functional relationship often exists between the entity and its beneficiaries.

Fourth, the 'dominant purpose test' that is the basis of the common law definition of a char-