

## **LINEAR EXHIBITION – SPEAKING NOTES<sup>1</sup>**

- 1 *Linear* is an exhibition conceived and curated to “guide us, teach us and let the objects tell our stories”.<sup>2</sup> These “stories” are the stories of the creativity, innovation, and ingenuity of the First Nations people of this continent throughout the millennia.

### **DAVID UNAIPON**

- 2 Behind me are a number of objects relating to the legacy of the man commemorated on our \$50 note, David Unaipon.<sup>3</sup> A Ngarrindjeri man, born in 1872 at the Raukkan mission south-east of Adelaide.<sup>4</sup> Unaipon’s description as ‘Australia’s Leonardo Davinci’ pays homage to his legacy as a preacher, as an author, and significantly, as an inventor.<sup>5</sup>
- 3 These objects tell the story of his numerous varied and significant accomplishments. They also narrate the story of Indigenous innovation and creativity more broadly. The existence of which continues to be denied by the persistent myth of Aboriginal and Torres Strait Islander people as having their origins in nomadic hunter gatherers.<sup>6</sup>

### **Song and Literary Works**

- 4 The exhibit includes a recording of Unaipon singing a Ngarrindjeri song.
- 5 Other exhibited objects tell the story of Unaipon’s literary achievements. As an author, his work consisted predominantly of his interpretations of traditional dreaming stories.<sup>7</sup> While some of these literary works were published in his

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<sup>1</sup> I gratefully acknowledge the considerable assistance that my Senior Tipstaff, Tess McLinden, provided to me in preparation of these speaking notes. All mistakes are, however, mine.

<sup>2</sup> Jacob Nash quoted in Brooke Fryer, “*Millennia of History Comes to Life at New Sydney Exhibition*” SBS (online, 13 November 2019) 2 <<http://sbs.com.au/nitv/article/2019/11/13>>.

<sup>3</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonya First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 8.

<sup>4</sup> Phillip Jones and John Ritchie (ed), *Australian Dictionary of Biography* (Melbourne University Press, 1990), Vol 12.

<sup>5</sup> Phillip Jones and John Ritchie (ed), *Australian Dictionary of Biography* (Melbourne University Press, 1990), Vol 12.

<sup>6</sup> Bruce Pascoe, *Dark Emu*, (Magbala Books Aboriginal Corporation, 2014) pp 1-13.

<sup>7</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonya First Reader About the Notable David Unaipon* (Sub-thesis, Australian National University, 2000) p 33.

lifetime, most were not. They are at least retained in Australian museums and galleries.

### ***Legendary Tales of Australian Aborigines***

6 This is the manuscript produced by Unaipon in 1930 for the work entitled *Legendary Tales of Australian Aborigines*.<sup>8</sup> Unaipon had been commissioned by Angus & Robertson to write a collection of Aboriginal myths and legends.<sup>9</sup> He did so, but regrettably the rights were sold to William Ramsey Smith, an anthropologist, who published the work as *Myths and Legends of the Australian Aborigines*,<sup>10</sup> without acknowledging Unaipon as the author.<sup>11</sup> It was not until in 1998 the discovery that Ramsey had wholly plagiarised Unaipon's work was uncovered and the rightful attribution to Unaipon was made.<sup>12</sup>

### ***Hungarrda (Aboriginal Legends)***

7 *Hungarrda* is a collection of Aboriginal legends. In 1927 it was the first publication by an Indigenous person.<sup>13</sup> *Hungarrda* talks about the "spirit consciousness", "loved ones, kindred and tribes all under the swaying influence and laws of the Harrunda" "seasons ever changing [and] all living forms and creatures adapting themselves to conditions and seasons and environment too".<sup>14</sup> These words are directed to the inextricable link that binds culture, spirituality, landscape, and relationships in Indigenous traditions. *Hungarrda* speaks to the ways that Indigenous knowledge is shared and presented through art, song-lines, and stories that are central to the transmission and survival of culture.<sup>15</sup>

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<sup>8</sup> David Unaipon, *Legendary Tales of the Australian Aborigine*, (Melbourne University Press, 1930).

<sup>9</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonya First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 41.

<sup>10</sup> William Ramsay Smith, *Myths and Legends of the Australian Aborigines* (Courier Corporation, 2003).

<sup>11</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonya First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 41.

<sup>12</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonya First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 41.

<sup>13</sup> State Library of NSW, *Aboriginal Legends*, collection viewer <search.sl.nw.gov.au/>.

<sup>14</sup> David Unaipon, *Hungarrda*, (Hunkin Ellis & King, 1927) pp 1 and 41.

<sup>15</sup> Angus Kidman, "The Australian Da Vinci: How David Unaipon (Almost) Changed Our Nation", *Gizmodo* (Web Page, 18 March 2014) <<http://gizmodo.com.au/2014/04/the-australian-da-vinci>>.

## Objects

- 8 In his lifetime Unaipon produced over 19 patents for various designs.<sup>16</sup> Between 1909 and 1944 he lodged patents for inventions such as a centrifugal motor and a multi-radial wheel, all of which, however, lapsed.

## Mechanical Shears

- 9 The most famous of his inventions are the mechanical hand shears that were patented in 1909.<sup>17</sup> Prior to Unaipon's design, blade sheers (resembling garden clippers) were used to shear sheep.<sup>18</sup> The shearing process was long and arduous. Unaipon's simple, but revolutionary, design was based on models of curvilinear motion.<sup>19</sup> It converted curvilinear motion into a straight-line movement.<sup>20</sup> So significant was the invention, that on 30 May 1914 the Chief Protector of Aboriginals approved the princely sum of £5 towards the cost of the patent for the mechanical shears (as seen in the memorandum of that date to David Unaipon in the exhibition).
- 10 Although the mechanical shears were widely adopted, the patent eventually lapsed and he made no money from it.
- 11 Nevertheless, this technology remains the basis of most mechanical shears used today. The contribution of this device to the Australian wool industry cannot be overstated.

## Perpetual Motion and the Boomerang

- 12 Unaipon was fascinated with perpetual motion. He predicted the invention of the helicopter, believing that the aerodynamics of the boomerang could be

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<sup>16</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonyia First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 42.

<sup>17</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonyia First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 42.

<sup>18</sup> Angus Kidman, "The Australian Da Vinci: How David Unaipon (Almost) Changed Our Nation", *Gizmodo* (Web Page, 18 March 2014) <<http://gizmodo.com.au/2014/04/the-australian-da-vinci>>.

<sup>19</sup> Angus Kidman, "The Australian Da Vinci: How David Unaipon (Almost) Changed Our Nation", *Gizmodo* (Web Page, 18 March 2014) <<http://gizmodo.com.au/2014/04/the-australian-da-vinci>>.

<sup>20</sup> Angus Kidman, "The Australian Da Vinci: How David Unaipon (Almost) Changed Our Nation", *Gizmodo* (Web Page, 18 March 2014) <<http://gizmodo.com.au/2014/04/the-australian-da-vinci>>.

applied to aircraft.<sup>21</sup> In an interview with the *Daily Herald* in 1914, Unaipon theorised that “an aeroplane can be manufactured that will rise straight into the air from the ground by the application of the boomerang principle. The boomerang is shaped to rise in the air according to the velocity with which it is propelled, and so can an aeroplane. ...This class of flying ship can be carried on board ship, the advantages of which are obvious”.<sup>22</sup>

13 Unaipon’s interest in perpetual motion originated from a lecture given at the Port Macleay mission and he studied it until his death in 1967. He would perform as a showman and an educator at agricultural shows using makeshift displays and the boomerang to illustrate his theories in this regard.<sup>23</sup>

14 As Unaipon observed in 1953:

While some people regarded my attempt to find out the secret of perpetual motion as a dream, the instrument I often took with me to illustrate my studies appealed to many of the educated, and this enabled me also to interest them in the welfare of the aborigines.<sup>24</sup>

## Activism

15 Unaipon was a powerful advocate for the advancement of Aboriginal interests and often spoke and wrote about the injustices suffered by his people.<sup>25</sup> He testified before several government Royal Commissions into the mistreatment of Aboriginals and the management of the Port Macleay mission. He engaged with various policy makers in seeking redress for Aboriginal people as evidenced by the Herbert Basedow papers (exhibited here).

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<sup>21</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonyia First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 42.

<sup>22</sup> David Unaipon quoted in the *Daily Herald* (1914), “An Aboriginal Genius” (interview), 1 June 2014.

<sup>23</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonyia First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 44.

<sup>24</sup> David Unaipon (1953) quoted in Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonyia First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) p 45.

<sup>25</sup> Martin Bush, *Shifting From One to the Other Brings on Pneumonia: a Goonyia First Reader About the Notable David Unaipon* (sub-thesis, Australian National University, 2000) pp 39 and 40.

16 Herbert Basedow was an Australian anthropologist, politician and doctor.<sup>26</sup> He campaigned for the better treatment and the improved health and wellbeing of Aboriginal people.<sup>27</sup> The Herbert Basedow papers refer to a series of letters exchanged between Unaipon and Basedow. These communications focused not only on Unaipon's inventions (including capital raising for his patent applications) but also the promotion of awareness of Aboriginal interests.<sup>28</sup>

## Summary

17 The Unaipon exhibits tell only a small part of the story of David Unaipon's remarkable ingenuity.

18 They do not tell of how the fame that Unaipon experienced in his lifetime was in large part derived from the bewilderment of his non-Indigenous peers that a blackfella could learn, teach, and apply science and engineering.<sup>29</sup>

19 Nor do they tell of the way in which his undoubted genius was frustrated by prejudice,<sup>30</sup> of how his celebrity failed to lift him out of poverty, or of his repeated failure to raise the capital necessary to realise many of his designs and patents.<sup>31</sup>

20 But the exhibits, and the stories that they tell, teach us about the importance of recognising Aboriginal and Torres Strait Islander people as writers, as designers, as inventors, as engineers, as scientists, and as thinkers. And they invite us to consider how Indigenous science and technology can, if we look and learn, offer us new ways of thinking.<sup>32</sup>

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<sup>26</sup> State Library of NSW, *Herbert Basedow Papers*, (collection viewer) <<http://search.sl.nw.gov.au>>.

<sup>27</sup> State Library of NSW, *Herbert Basedow Papers*, (collection viewer) <<http://search.sl.nw.gov.au>>.

<sup>28</sup> State Library of NSW, *Herbert Basedow Papers*, (collection viewer) <<http://search.sl.nw.gov.au>>.

<sup>29</sup> Phillip Jones and John Ritchie (ed), *Australian Dictionary of Biography* (Melbourne University Press 1990) Vol 12.

<sup>30</sup> State Library of NSW, *Herbert Basedow Papers*, (collection viewer) <<http://search.sl.nw.gov.au>>.

<sup>31</sup> State Library of NSW, *Herbert Basedow Papers*, (collection viewer) <<http://search.sl.nw.gov.au>>.

<sup>32</sup> Marcia Langton, *Innovation – Indigenous genius then and now* (speech delivered for the AIATSIS annual Wentworth Lecture, 25 September 2019).

21 As Unaipon wrote, “children, I have many...stories to tell you”<sup>33</sup>. We would be wise to listen.

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<sup>33</sup> David Unaipon, *Hungarrda*, (Hunkin Ellis & King, 1927) p 1.

## THE WAP

### *Yanner v Eaton*

- 22 In 1994 Murandoo Yanner used this Wap (or harpoon) to catch two crocodiles in Gangalidda Country, Clifffdale Creek in the Gulf of Carpentaria.<sup>34</sup>
- 23 As a consequence, he was charged with taking a crocodile without a license in contravention of s 54(1)(a) the *Fauna Conservation Act 1974* (QLD). Yanner argued that because he was exercising his rights under traditional law, he was not required to obtain a licence. Ultimately, he was vindicated in the High Court.
- 24 The Wap, made by elders from wood, bone and twine, tells the story of this seminal decision.
- 25 The case concerned whether the vesting of fauna as the property of the Crown by operation of the *Fauna Conservation Act* extinguished the native title rights and interests of the Gunnamulla clan of the Gangalidda tribe, including the right to hunt and kill in the area.
- 26 A majority of the High Court in *Yanner v Eaton* held that the concept of property (a bundle of rights), did not refer to a thing but rather to a legal relationship with a thing.<sup>35</sup> Therefore, the property vested in the Crown by the *Fauna Conservation Act* was less than full, beneficial, or absolute ownership.<sup>36</sup> In other words, the Act could not be construed as extinguishing native title.
- 27 The High Court of Australia further held that the hunting and fishing rights upon which Yanner relied were rights and interests possessed under the traditional laws and the traditional customs acknowledged and observed by the clan and tribe of which he was a member, the Gunnamulla clan.<sup>37</sup>

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<sup>34</sup> *Yanner v Eaton* [1999] HCA 53; (1999) 201 CLR 351 at [1].

<sup>35</sup> *Yanner v Eaton* [1999] HCA 53; (1999) 201 CLR 351 at [17].

<sup>36</sup> *Yanner v Eaton* [1999] HCA 53; (1999) 201 CLR 351 at [26].

<sup>37</sup> *Yanner v Eaton* [1999] HCA 53; (1999) 201 CLR 351 at [1].

- 28 This meant that s 211 of the *Native Title Act 1993* (Cth) applied. Section 211 provided that a law that prohibits or restricts persons from hunting or fishing other than in accordance with a licence, did not prohibit or restrict the pursuit of that activity where native title exists.<sup>38</sup> In other words, as the Court in *Yanner* noted, “saying to a group of Aboriginal people, ‘you may not hunt or fish without a permit’, does not sever their connection with the land concerned and does not deny the continued exercise of the rights and interests that Aboriginal law recognises them as possessing.”<sup>39</sup> *Yanner* therefore did not require a licence.
- 29 The significance of the case is two-fold: first, it articulated a more nuanced concept of property. It recognised that the term ‘property’ can be used to describe all or any of very many different kinds of relationship between a person and a particular subject matter.<sup>40</sup> In so doing, *Yanner* acknowledged that native title rights and interests “not only find their origin in Aboriginal law and custom, they reflect connection with the land.”<sup>41</sup>
- 30 Second, the case built upon a growing body of native title jurisprudence that commenced with *Mabo*,<sup>42</sup> *Wik*,<sup>43</sup> and *Fejo*,<sup>44</sup> and continued with *Yarmirr*<sup>45</sup> and *Akiba*.<sup>46</sup> These cases established that statutory prohibitions do not conclusively extinguish native title, or sever the connection of Aboriginal or Torres Strait Islander peoples with their land or waters.<sup>47</sup> For example, in *Akiba* it was held that the statutory injunction that there could be “no commercial fishing without a licence”, was not inconsistent with the continued existence of the relevant native title rights and interests of the members of the island communities of the Torres Strait.<sup>48</sup>

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<sup>38</sup> *Native Title Act 1993* (Cth) s 211.

<sup>39</sup> *Yanner v Eaton* [1999] HCA 53; (1999) 201 CLR 351 at [140].

<sup>40</sup> *Yanner v Eaton* [1999] HCA 53; (1999) 201 CLR 351 at [20].

<sup>41</sup> *Yanner v Eaton* [1999] HCA 53; (1999) 201 CLR 351 at [32]-[39].

<sup>42</sup> *Mabo v Queensland (No. 2)* [1992] HCA 23; (1992) 175 CLR 1.

<sup>43</sup> *Wik Peoples v Queensland* [1996] HCA 40; (1996) 187 CLR 1.

<sup>44</sup> *Fejo (on behalf of Larrakia People) v Northern Territory* [1998] HCA 58; (1998) 195 CLR 96.

<sup>45</sup> *The Commonwealth v Yarmirr* [2001] HCA 56; (2001) 208 CLR 1.

<sup>46</sup> *Akiba v Commonwealth* [2013] HCA 33; (2013) 250 CLR 209.

<sup>47</sup> *Akiba v Commonwealth* [2013] HCA 33; (2013) 250 CLR 209 at [63]-[65].

<sup>48</sup> *Akiba v Commonwealth* [2013] HCA 33; (2013) 250 CLR 209 at [75] *Akiba* was cited in *Love v Commonwealth* [2020] HCA 3; (2020) 94 ALJR 198 at [139]; *Northern Territory v Griffiths* [2019] HCA 7; (2019) 93 ALJR 327 at [69]; *Western Australia v Brown* [2014] HCA 8; (2014) 253 CLR 507 at [31] and *Karpány v Dietman* [2013] HCA 47; (2013) 252 CLR 507 at [5] and [19].

## Indigenous Design

- 31 The Wap also tells a story of the endurance and functionality of Indigenous creativity and design.
- 32 In the more than 200 years that have passed since European colonisation, changes to the design of the wap have been minimal.<sup>49</sup> Although the harpoon head is now made from a metal, rather than wood, and the rope that attaches to it is now made from nylon or hemp, and not pandanus bark, its form and operation remains fundamentally unchanged.<sup>50</sup>
- 33 The spear is released and moves quickly through the air as an extension of the thrower's arm.<sup>51</sup> This enables it to cover long distances at great speed and to stay on target.<sup>52</sup> It makes for a highly effective weapon.
- 34 The design is elegantly minimalist and peculiarly adapted to the Australian landscape. There is no gunshot to scare other prey away; its construction sources readily available materials from the land; and it has few moving parts to break and can be easily repaired.

## Meaning of the Wap

- 35 The central tenet of the *Linear* exhibition is the concept of who you are, where you come from, and where you are going.
- 36 *Yanner v Eaton* recognised that Aboriginal and Torres Strait Islander peoples have an innate connection to the land that transcends non-Aboriginal

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<sup>49</sup> National Oceans Office, 2004 *Living on Saltwater Country: Review of literature about Aboriginal rights, use, management and interest in northern Australian marine environments*, pp 14-16.

<sup>50</sup> National Oceans Office, 2004 *Living on Saltwater Country: Review of literature about Aboriginal rights, use, management and interest in northern Australian marine environments*, pp 14-16.

<sup>51</sup> National Oceans Office, 2004 *Living on Saltwater Country: Review of literature about Aboriginal rights, use, management and interest in northern Australian marine environments*, pp 14-16.

<sup>52</sup> National Oceans Office, 2004 *Living on Saltwater Country: Review of literature about Aboriginal rights, use, management and interest in northern Australian marine environments*, pp 14-16.

conceptions of property and property rights;<sup>53</sup> it defines who they are, where they come from, and where they will always be.

- 37 It is what has enabled the Aboriginal people to adapt and survive as the oldest continuous living culture on this planet.<sup>54</sup>
- 38 As Professor Marcia Langton stated in her Wentworth Lecture at the National Press Club last year, “Indigenous peoples have lived in parts of Australia for at least 65,000 years. Throughout this time, they have adapted and innovated as they have survived an ice age, the disappearance of a mega-fauna, the rising up of the seas and the drying up of a continent”.<sup>55</sup>
- 39 The Wap also embodies the “duty” and “concern” that Aboriginal and Torres Strait Islander people have to “look after country”.<sup>56</sup>
- 40 The practice of this “duty” and “concern” is not new. Prior to European colonisation Aboriginal and Torres Strait Islander people cared for country with systematic and scientific land management techniques.<sup>57</sup> These systems incorporated fire and centred upon the life cycles of native plants and natural fluctuations in water supply to ensure plentiful (that is, sustainable) wildlife, and therefore, food throughout the year.<sup>58</sup>
- 41 For example, Aboriginal and Torres Strait Islander people have long used fire to control habitat growth, paying careful consideration to flora and fauna in determining their burning patterns.<sup>59</sup>
- 42 These practices continue today. The Firesticks Alliance is an initiative focused on cultural burning.<sup>60</sup> It is based on listening to the landscape, of knowing its

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<sup>53</sup> *Yanner v Eaton* [1999] HCA 53; (1999) 201 CLR 351 at [1].

<sup>54</sup> The Hon Kevin Rudd PM, *Apology to Australia’s Indigenous Peoples*, 13 February 2008.

<sup>55</sup> Marcia Langton, “*Innovation – Indigenous genius then and now*” (speech delivered for the AIATSIS annual Wentworth Lecture, National Press Club, 25 September 2019).

<sup>56</sup> *Griffiths v Northern Territory (No 3)* [2016] FCA 900; (2016) 337 ALR 362 at [345]

<sup>57</sup> Bill Gammage, *The Biggest Estate on Earth* (Allen & Unwin Australia, 2012).

<sup>58</sup> Jens Korff, “Aboriginal Land Management”, *Creative Spirits* (webpage, 13 August 2020) <<http://creativespirits.info/aboriginalculture/land/aboriginal-land-care>>.

<sup>59</sup> Jens Korff, “Aboriginal Land Management”, *Creative Spirits* (webpage, 13 August 2020) <<http://creativespirits.info/aboriginalculture/land/aboriginal-land-care>>.

<sup>60</sup> Amira Abujbara, ‘Could Aboriginal fire practices help combat Australian wildfires?’ *Aljazeera* (Sydney), 10 September 2020, p 1.

story, and of healing through burning.<sup>61</sup> Healing burns are controlled burns that trace mosaic patterns in the landscape to manage the land with slow burns.<sup>62</sup> The smoke warns the birds and animals in the surrounding area to move away.<sup>63</sup> They are effective. On country where these burns have been carried out it was observed that minimal damage occurred during our past summer of catastrophic bushfires.<sup>64</sup>

## Summary

- 43 This Wap tells the story of resilience and adaptation that has enabled the Aboriginal and Torres Strait Islander people to survive in challenging landscapes for millennia.
- 44 It also tells the story of connection to country that is more than just physical, but is spiritual and metaphysical; that, to quote the recent High Court decision in *Northern Territory v Griffiths*, “the people, the ancestral spirits, the land and everything on it are one ‘organic part of one indissoluble whole’: the effects on the sense of connection are not to be understood as referable to individual blocks of land but understood by the ‘pervasiveness of Dreaming’”.<sup>65</sup>

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<sup>61</sup> Amira Abujbara, ‘Could Aboriginal fire practices help combat Australian wildfires?’ *Aljazeera* (Sydney), 10 September 2020, p 2.

<sup>62</sup> Amira Abujbara, ‘Could Aboriginal fire practices help combat Australian wildfires?’ *Aljazeera* (Sydney), 10 September 2020, pp 2, 3.

<sup>63</sup> Amira Abujbara, ‘Could Aboriginal fire practices help combat Australian wildfires?’ *Aljazeera* (Sydney), 10 September 2020, pp 2-3.

<sup>64</sup> Amira Abujbara, ‘Could Aboriginal fire practices help combat Australian wildfires?’ *Aljazeera* (Sydney), 10 September 2020, p 4.

<sup>65</sup> *Northern Territory v Griffiths* [2019] HCA 7; 93 ALJR 327 at [206].