



HIGH COURT OF AUSTRALIA

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Details of Filing

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IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN:

IAN MICHAEL MACDONALD

Appellant

and

THE KING

Respondent

APPELLANT'S REPLY

Part I: FORM OF REPLY

1. This reply is in a form suitable for publication on the internet.

Part II: CONCISE REPLY TO THE ARGUMENT OF THE RESPONDENT

2. Mr Macdonald adopts the Reply submissions of Moses Obeid in S89/2025.
3. **RS [56]** fails to engage with the fact that the limiting formula used in the purported identification of the “descriptive class” includes the elements of the offence. The approach is circular. Absent the alleged agreement to commit the elements of the offence, the only limiting criteria to the class are that the acts agreed upon would be “in connection with the granting of an exploration licence at Mount Penny in the State of New South Wales” and “concerning the interests of Edward Moses Obeid and/or Moses Edward Obeid and/or their [unidentified] family members and/or associates”. The agreement alleged is nothing more than an agreement to commit the bare elements of the predicate offence in an unspecified and functionally unconfined way.
4. The Respondent assumes, rather than demonstrates, that the conspiracy was not “at large”: cf **RS [57]**. The terms of the indictment do not provide any meaningful limitation. The objection to a broadly articulated conspiracy is not one of proof but of prejudice – a concern which the Respondent dismisses as “overstated” rather than meaningfully engaging with. The provision of overt acts (which the Crown accepted

were not and could not be agreed upon: Crown Closing, Day 70, 1 February 2021, T3663.33-36 **Moses Obeid AABFM 1 311**) does not render the Crown case a proper one.

5. That there are differences between joint criminal enterprise and conspiracy in no way detracts from the issues of coherency that would arise from the expansion of common law conspiracy in the manner effected by the CCA and contended for by the Crown: cf **RS [59]**. Such issues are not a “distraction”, but rather a matter of critical concern for a final appellate court in a common law jurisdiction.
6. Mr Macdonald no longer anticipates that 45 minutes will be required for oral argument. 20-30 minutes will be sufficient.

Dated: 1 October 2025



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