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Daily Construction A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

BHP Billiton Mitsui Coal Pty Ltd v Isdale (No 2) (QSC) - costs - successful applicant in judicial review proceedings to have costs paid by unsuccessful respondents

Absolute Analogue Inc v Sundance Resources Ltd (WASCA) - contract - oral contract - erroneous credibility findings - appeal allowed - retrial

Summaries With Link (Five Minute Read)

BHP Billiton Mitsui Coal Pty Ltd v Isdale (No 2) [2015] QSC 248

Supreme Court of Queensland

P McMurdo J

Costs - Court made statutory order of review under *Judicial Review Act 1991* (Qld) - applicant successful and sought costs on basis they should follow event - second respondents sought that each side should bear own costs - s49 - identification of "the relevant applicant" - financial resources of relevant applicant - public interest - held: proceeding resulted from second respondents' stance in Land Court which resulted in Land Court making reviewable error of law - second respondents' case reasonably arguable but applicant had had to bring proceeding and should have its costs paid by the unsuccessful parties.

[BHP](#)

Absolute Analogue Inc v Sundance Resources Ltd [2015] WASCA 168

Court of Appeal of Western Australia

McLure P; Buss & Mazza JJA

Contract - trial judge held that respondent (Sundance) not contractually obliged to issue 30 million options in Sundance to second appellant - alleged oral contract made between second appellant on appellants' behalf and two others on Sundance's behalf - trial judge made adverse general credibility findings against second appellant and did not accept his uncorroborated evidence where contradicted by other evidence or unlikely - general credibility findings challenged on appeal - appellants contended trial judge's failure to accept second appellant's evidence concerning crucial conversations was against weight of evidence and compelling inferences - appellants also challenged individual findings of fact - held: trial judge erred in findings as to credibility and factual findings - appeal allowed - retrial ordered.

[Absolute](#)

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