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## Daily Civil Law A Daily Bulletin listing Decisions of Superior Courts of Australia

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### CIVIL (Insurance, Banking, Construction & Government)

### Executive Summary (1 minute read)

**Gazcorp Pty Limited v Woolworths Group Limited** (NSWSC) - evidence - lease - plaintiff sought ruling evidence was inadmissible on basis it was privileged and/or fell within terms of 'Standstill Agreement' - notice of motion dismissed except in respect of one sub-paragraph of affidavit (I B C G)

**Boulus Constructions Pty Ltd v Warrumbungle Shire Council** (NSWSC) - pleadings - contract - plaintiff sought to amend List statement - application allowed in part (B C I)

**Stone v Guli; Stone v Smith; Stone v Mount Isa Mines Limited & Anor** (QCA) - industrial law - criminal law - *Mining and Quarrying Safety and Health Act 1999* (Qld) - want of jurisdiction - complaints struck out - appeals dismissed (I B C G)

**O'Malley v Shire of Northam** (WASC) - planning and development - criminal law - conflict of interest - appellant convicted and sentenced for offence of contravening planning scheme - appeal dismissed (I B C G)

### Summaries With Link (Five Minute Read)

**Gazcorp Pty Limited v Woolworths Group Limited [2020] NSWSC 1836**

Supreme Court of New South Wales

Ward CJ in Eq

Evidence - lease - plaintiff, by notice of motion, sought pursuant to 192A *Evidence Act 1995* (NSW) (Evidence Act), ruling that evidence was inadmissible on basis it was privileged under s131 Evidence Act and/or fell within terms of 'Standstill Agreement' - held: notice of motion dismissed except in respect of sub-paragraph of affidavit which was found inadmissible under s192A Evidence Act.

[View Decision](#) (I B C G)

## **Boulus Constructions Pty Ltd v Warrumbungle Shire Council [2020] NSWSC 1847**

Supreme Court of New South Wales

Stevenson J

Pleadings - contract - consumer law - misleading and deceptive conduct - plaintiff sought to amend List Statement - Sch 2 *Competition and Consumer Act 2010* (Cth) - *MacDonald v Shinko Australia Pty Ltd* [1999] 2 Qd R 152 - "different" or "better" transaction case' - "no contract case" - held: application allowed in part.

[View Decision](#) (B C I)

## **Stone v Guli; Stone v Smith; Stone v Mount Isa Mines Limited & Anor [2020] QCA 288**

Court of Appeal of Queensland

McMurdo & Mullins JJA; Davis J

Industrial law - criminal law - appellant contended respondents committed offences against *Mining and Quarrying Safety and Health Act 1999* (Qld) (MQSHA) - appellant 'swore complaints' under *Justices Act 1886* (Qld) - respondents contended, unsuccessfully, that appellant lacked authority to commence criminal proceedings so Industrial Magistrates Court lacked jurisdiction to hear complaints - Industrial Court of Queensland accepted arguments of respondents - complaints 'struck out for want of jurisdiction' - appellant appealed and sought to reinstate Industrial Magistrates Court's orders - construction of ss234 & 257 MQSHA - 'power of delegation' - whether 'authority to prosecute' in s234(5)(b) MQSHA a 'power referred to' in s257 MQSHA - '*Anthony Hordern* principle; - held: appeals dismissed.

[Stone](#) (I B C G)

## **O'Malley v Shire of Northam [2020] WASC 429**

Supreme Court of Western Australia

Smith J

Planning and development - criminal law - appellant convicted and sentenced for offence of contravening planning scheme - appellant sought to appeal out of time - s218(a) *Planning and Development Act 2005* (WA) - conflict of interest - bias - whether miscarriage of justice - representation of appellant by counsel 'who was also a councillor of the respondent' when representing appellant - whether manifest excess - held: appeal dismissed.

[O'Malley](#) (I B C G)

# Benchmark



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## Summaries With Link



**Song: 'The bee to the heather'**

**By: Sir Henry Taylor**

THE BEE to the heather,  
The lark to the sky,  
The roe to the greenwood,  
And whither shall I?

O, Alice! Ah, Alice! 5  
So sweet to the bee  
Are the moorland and heather  
By Cannock and Leigh!

O, Alice! Ah, Alice!  
O'er Teddesley Park 10  
The sunny sky scatters  
The notes of the lark!

O, Alice! Ah, Alice!  
In Beaudesert glade  
The roes toss their antlers 15  
For joy of the shade!—

But Alice, dear Alice!  
Glade, moorland, nor sky  
Without you can content me—  
And whither shall I? 20

[https://en.wikipedia.org/wiki/Henry\\_Taylor\\_\(dramatist\)](https://en.wikipedia.org/wiki/Henry_Taylor_(dramatist))

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