



Offsetting and Compensation – Opportunities for future generations through mining projects

AusIMM 2025 Conference

Joshua Leckie
Partner
Lane Neave

26 August 2025





Disclaimer

- This information isn't a substitute for, and does not constitute, legal or any other kind of professional advice and is intended only as a guide.
- If legal advice is required, please let us know and we can arrange a formal engagement.



Legislative Background

- Offsetting and compensation developed through the common law.
- The Resource Legislation Amendment Act 2017 changed the consenting landscape.
- The introduction of the Fast-Track Approvals Act 2024 has changed the decision-making exercise.

Version as at 5 April 2025

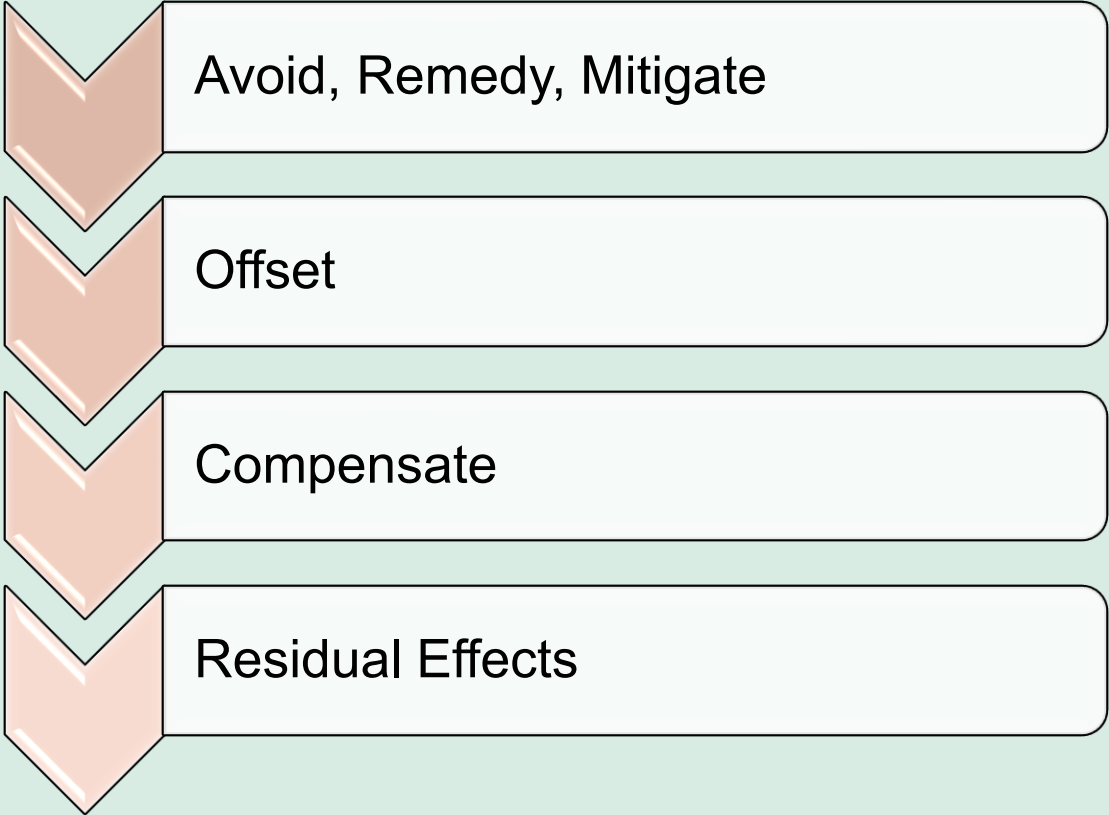


Resource Management Act 1991

Public Act 1991 No 69
Date of assent 22 July 1991
Commencement see section 1(2)



RMA Effects Management Hierarchy





Avoid, remedy, mitigate

- Section 17 of the Resource Management Act creates a duty for applicants.





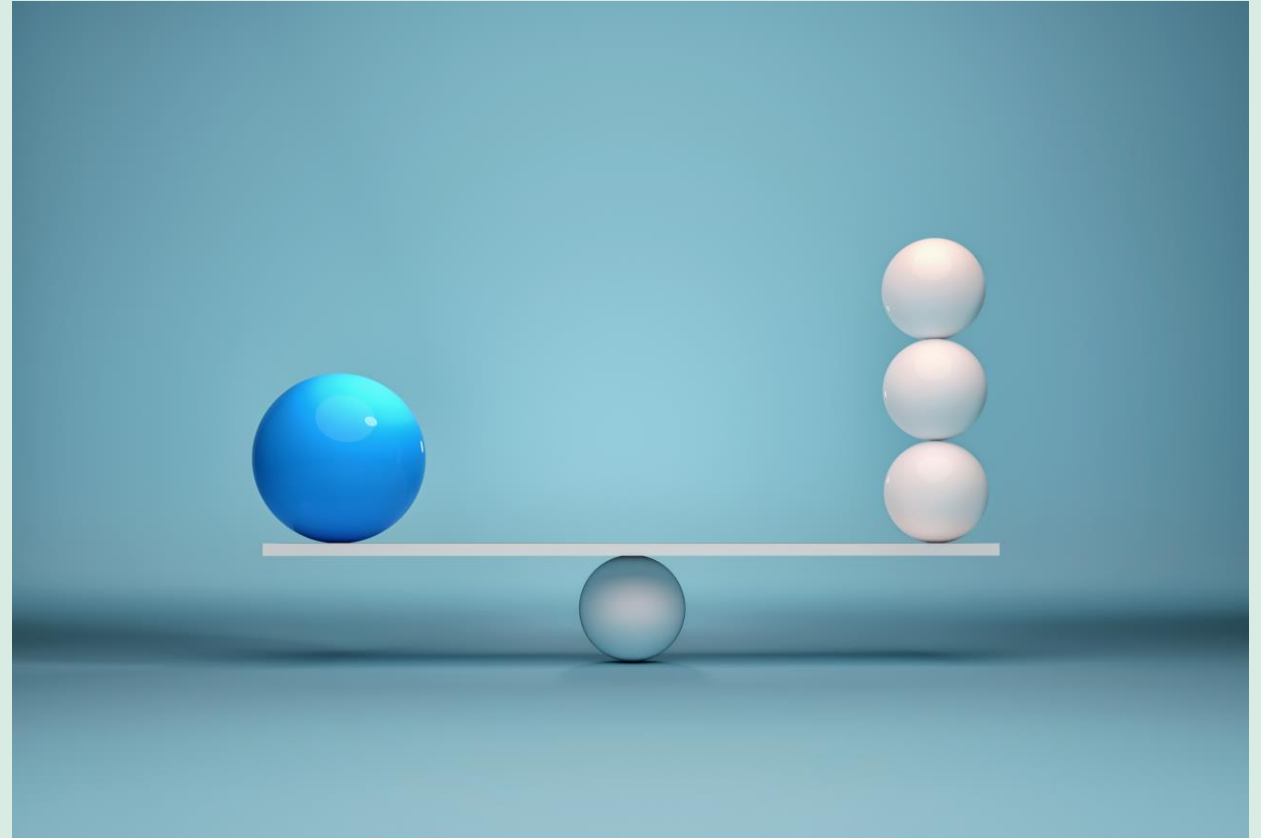
Residual effects – what next?





Principles of Offsetting

- No net loss / net gain.
- Like for like.
- Additionality.
- Secure outcomes.
- Design.
- East- West Link and the Supreme Court's *"holistic approach"*.





Where is compensation appropriate



- Compensation \neq no net loss.
- Compensation is the last step and is the last resort.
- The approach differs from offsetting.



Limits to offsetting and compensation

- National Policy Statements for Indigenous Biodiversity 2023 and the National Policy Statement for Freshwater Management 2020.





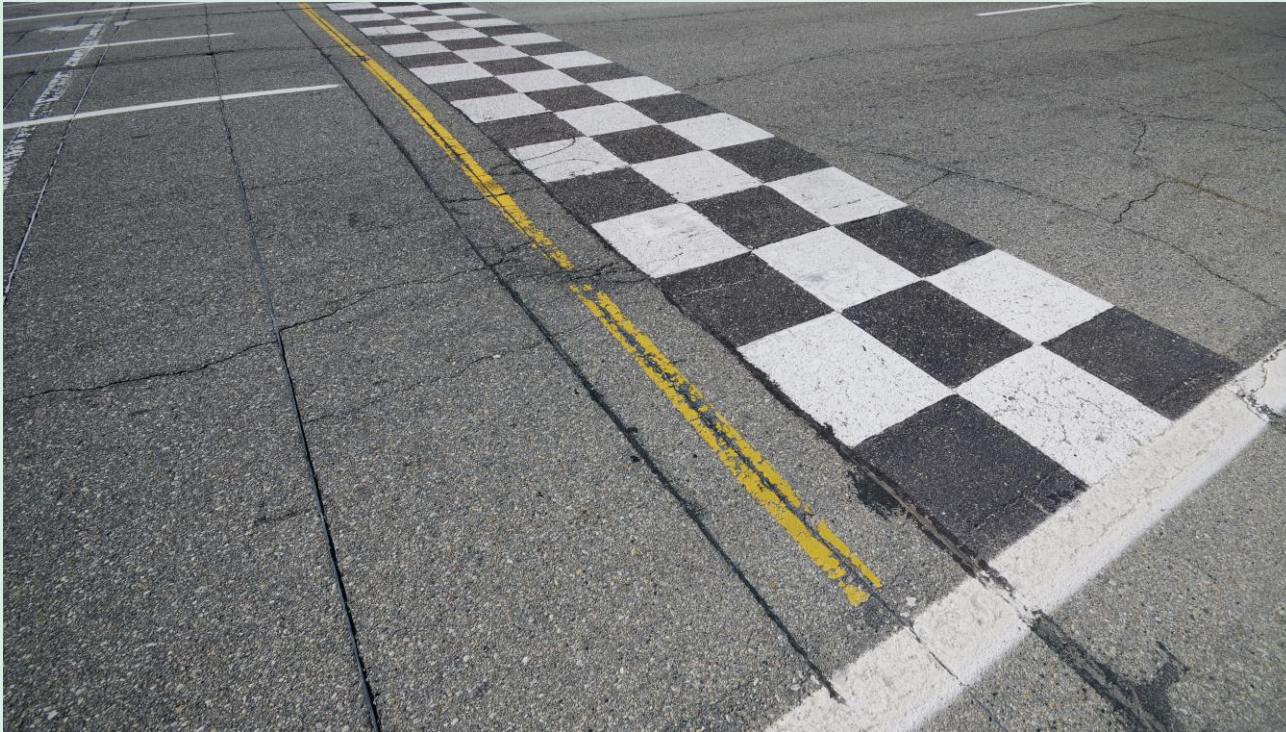
The decision-making role of offsetting and compensation



- Predictive modelling is a common form of presenting offsetting and compensation to a decision maker.
- These approaches have their limitations.



Changes to the evaluative exercise – our thoughts



- The Fast-Track Approvals Act 2024 introduces a new approach.
- Facilitating delivery.



What do the changes in the Fast-Track Approvals Act mean practically?

- Adverse effects are seen differently.
- The assessment has been detuned, but decision makers are not toothless.
- A bucket approach...





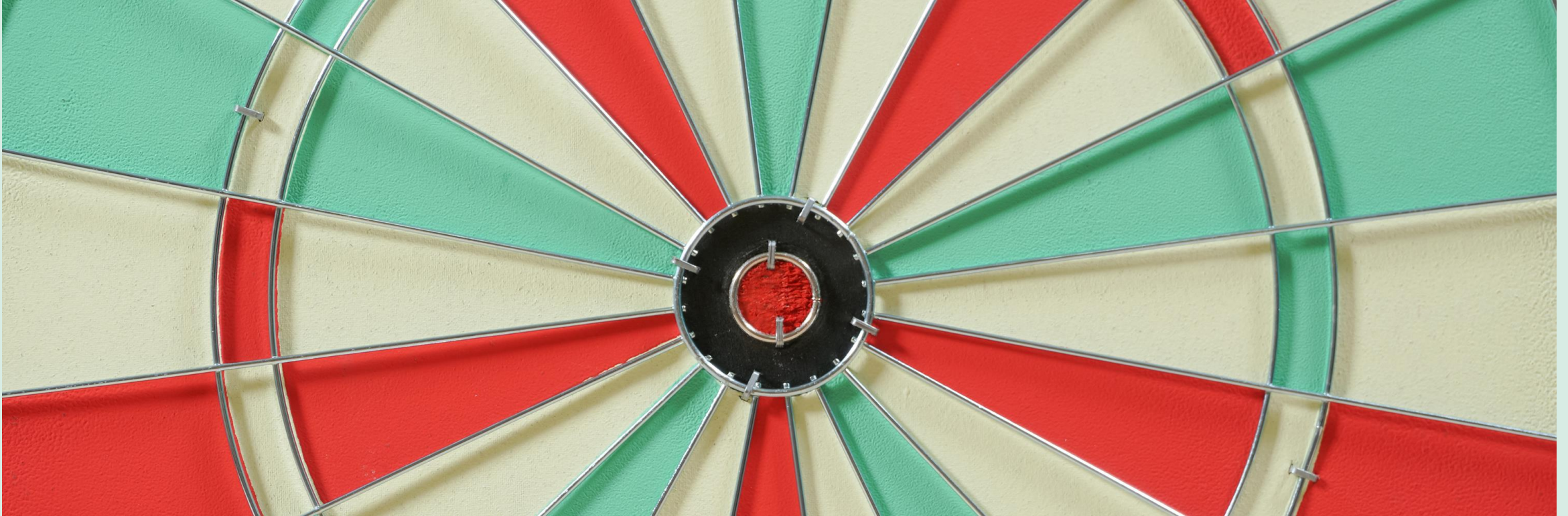
Limits under the Fast-Track Approvals Act



- The relevance of limits may change.
- Panels will still consider any adverse effects.



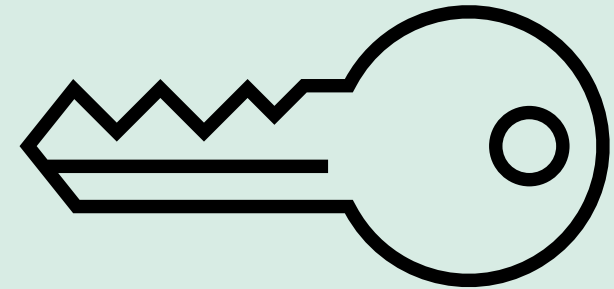
Conclusions





Key takeaways

- Offsetting and compensation can play an important role in the consenting of large-scale development.
- Offsetting and compensation are appropriate only where avoidance, remedying and mitigation have already taken place.





Questions?

