



Resource management reform webinar

EDS perspectives on the
Natural and Built
Environment Bill and Spatial
Planning Bill

Introduction



- Outline of the bills and their context
- EDS perspectives on key issues to be fixed
- Questions and discussion

Background to the reforms

- The RMA is not fit for purpose
- EDS has been involved in system reform efforts for 6 years
- The Randerson Panel recommended systemic change
- The bills are a mixed bag

Overview of the Bills

- There are three bits of legislation in the overall reform package
- The Natural and Built Environment Bill (NBE Bill) and Spatial Planning Bill are before the House now.
- The Climate Adaptation Bill will come later.
- The NBE Bill is a regulatory statute, like the RMA
- The Spatial Planning Bill is a strategic statute, mainly aiming to align other bits of legislation.

The NBE Bill



- Conceptually similar to the RMA
- If you want to do certain kinds of things, you need authorisation
- Includes land use (“planning”) and environmental protection
- Basic architecture is similar to RMA
- But significant changes

The NBE Bill – hierarchy of instruments

- Purpose and principles
- National direction – the National Planning Framework (NPF)
- NBE plans – like combined regional/district plans
- Consenting
- Designations, water conservation orders, etc

Key problems to be fixed – what to say in your submission



- Purpose
- Outcomes and decision-making principles
- Limits and targets
- Protecting places of national importance
- Climate change
- Other issues

Purpose

(a) enable the use, development, **and** protection of the environment **in a way that—**

- (i) supports the well-being of present generations without compromising the well-being of future generations; and
 - (ii) promotes outcomes for the benefit of the environment; and
 - (iii) complies with environmental limits and their associated targets; and
 - (iv) manages adverse effects; **and**
- (b) recognise and uphold te Oranga o te Taiao.

Te Oranga o te Taiao means:

- (a) the health of the natural environment; and
- (b) the essential relationship between the health of the natural environment and its capacity to sustain life; and
- (c) the interconnectedness of all parts of the environment; and
- (d) the intrinsic relationship between iwi and hapū and te Taiao.

- To assist in achieving the purpose of this Act, the national planning framework and all plans must provide for the following system outcomes:
- (a) the **protection** or, if degraded, restoration, of—
 - (i) the ecological integrity, mana, and mauri of—
 - (A) **air, water, and soils**; and
 - (B) the **coastal environment, wetlands, estuaries, and lakes and rivers** and their margins; and
 - (C) **indigenous biodiversity**:
 - (ii) **outstanding natural features and outstanding natural landscapes**:
 - (iii) the **natural character** of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins:
- (b) in relation to climate change and natural hazards, achieving—
 - (i) the reduction of **greenhouse gas emissions**:
 - (ii) the removal of greenhouse gases from the atmosphere:
 - (iii) **the reduction of risks** arising from, and better resilience of the environment to, natural hazards and the effects of climate change:
- (c) **well functioning urban and rural areas** that are responsive to the diverse and changing needs of people and communities in a way that promotes—
 - (i) the **use and development** of land for a variety of activities, including for housing, business use, and primary production;
 - (ii) the ample **supply of land for development**, to avoid inflated urban land prices;
 - (iii) housing choice and affordability;
 - (iv) an **adaptable and resilient urban form** with good accessibility for people and communities to social, economic, and cultural opportunities;
- (d) the availability of highly productive land for land-based **primary production**:
- (e) the recognition of, and making provision for, the **relationship of iwi and hapū** and the exercise of their kawa, tikanga (including kaitiakitanga), and mātauranga in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga:
- (f) the protection of protected **customary rights** and recognition of any relevant statutory acknowledgement:
- (g) the conservation of **cultural heritage**:
- (h) enhanced **public access** to and along the coastal marine area, lakes, and rivers:
- (i) the ongoing and timely provision of **infrastructure services** to support the well-being of people and communities.

(1) To assist in achieving the purpose of this Act, the Minister and every regional planning committee, in making decisions under the Act, must—

- (a) provide for the **integrated management** of the environment; and
- (b) actively **promote the outcomes** provided for under this Act; and
- (c) recognise the **positive effects of using and developing** the environment to achieve the outcomes; and
- (d) **manage the effects** of using and developing the environment in a way that achieves, and does not undermine, the outcomes; and
- (e) **manage the cumulative** adverse effects of using and developing the environment.

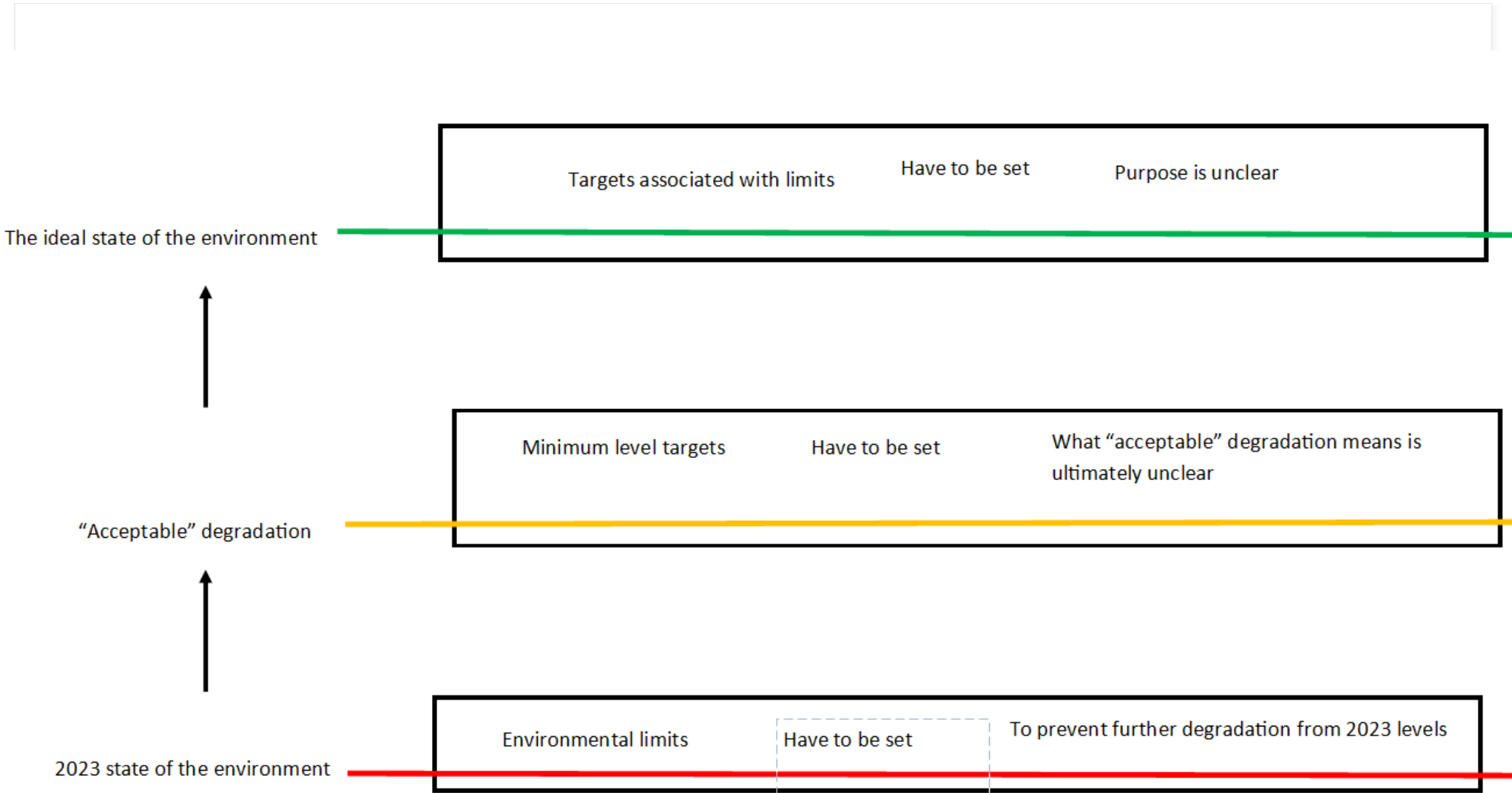
(2) If, in relation to making a decision under this Act, the information available is uncertain or inadequate, all persons exercising functions, duties, and powers under this Act must favour—

- (a) **caution**; and
- (b) a level of **environmental protection** that is proportionate to the risks and effects involved.

(3) All persons exercising powers and performing functions and duties under this Act must recognise and provide for the responsibility and mana of each iwi and hapū to protect and sustain the health and well-being of te taiao in accordance with the kawa, tikanga (including kaitiakitanga), and mātauranga in their area of interest.

Limits and targets

- Limits and targets are core to the Bill's purpose – that's good!
- They also have their own purpose, so can't be watered down.
- They *must* be set for various things – also good.
- Mandatory *targets* are also good, because we need to improve things. The RMA lacked this.
- BUT.... there are flaws that should and can be fixed.



The ideal state of the environment



"Acceptable" degradation

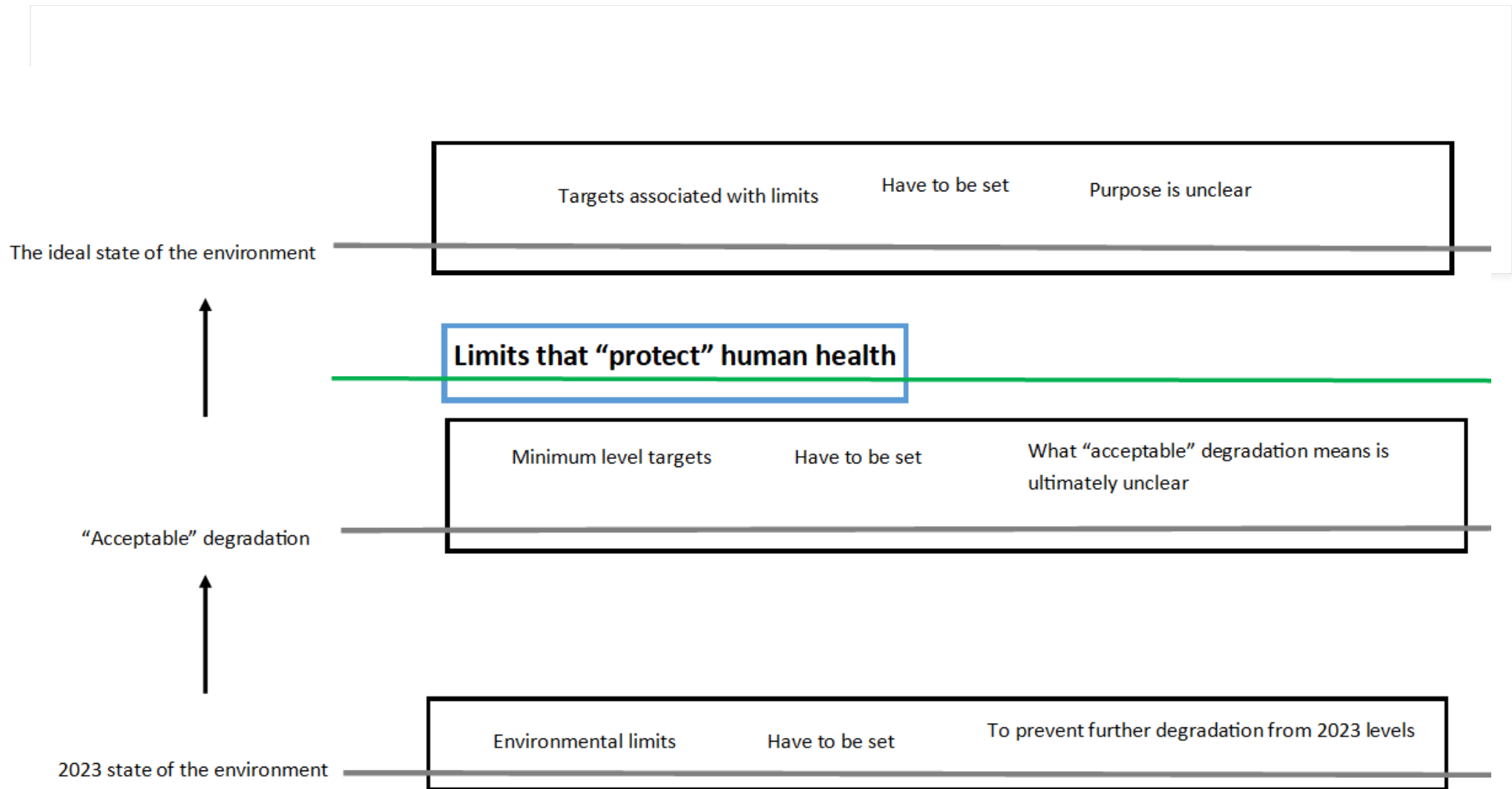


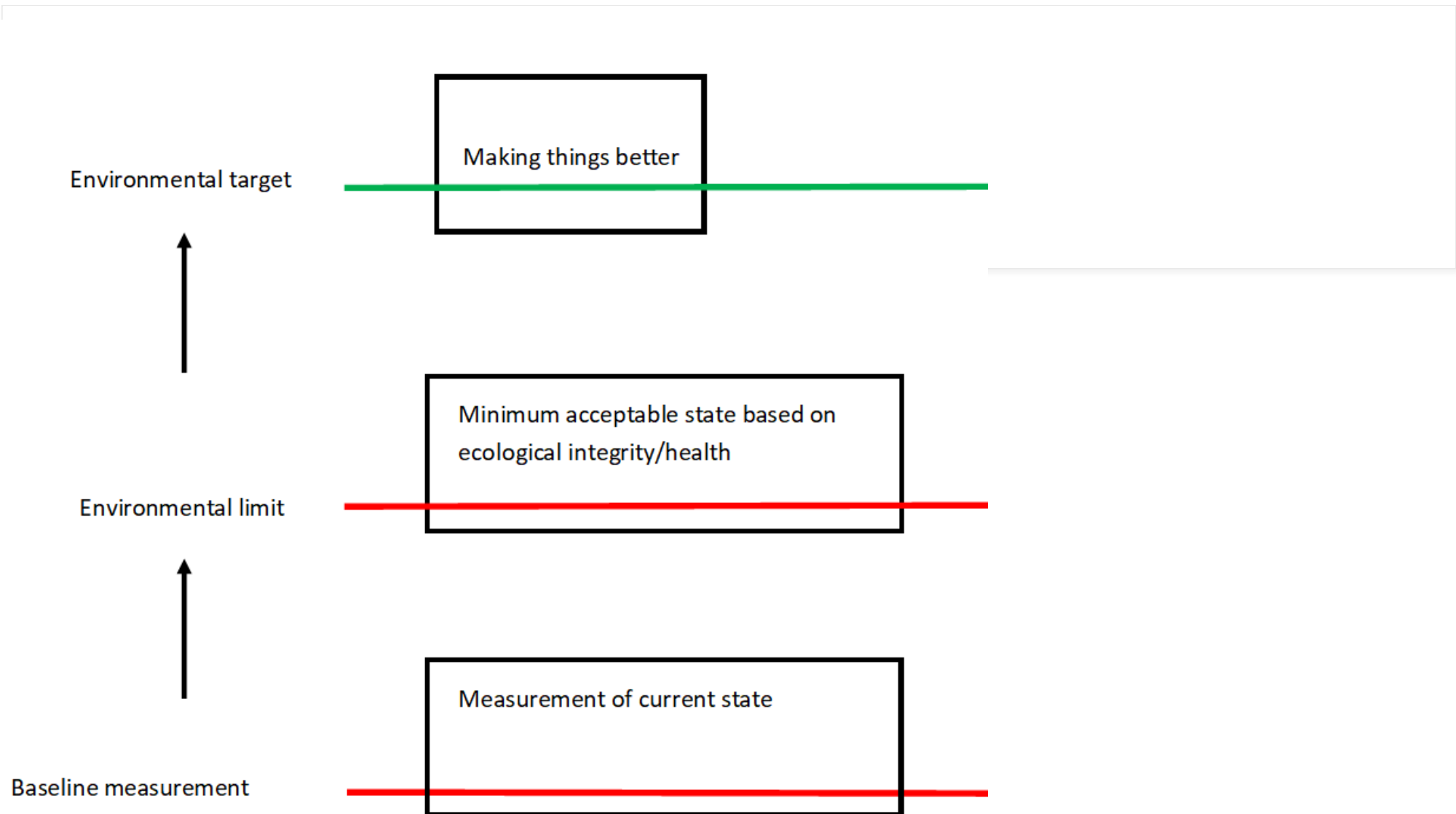
2023 state of the environment

Targets associated with limits Have to be set Purpose is unclear

Minimum level targets Have to be set What "acceptable" degradation means is ultimately unclear

Environmental limits Have to be set To prevent further degradation from 2023 levels





Environmental target

Making things better

Environmental limit

Minimum acceptable state based on ecological integrity/health

Baseline measurement

Measurement of current state

Limits and targets

- Interim targets – getting worse before gets better?
- A lot of discretion to grant exemptions
- Broad management units
 - Local degradation offset elsewhere?
 - Environmental justice concerns?
 - Averaging out degradation over large areas might mean minimum improvements are not even required
- Consenting and designations

Places of national importance - PONIs

- PONIs include significant biodiversity areas (SBAs) and outstanding natural landscapes (ONLs)
- Specific protection of PONIs are important
 - Environmental limits can be averaged out
 - Outcomes can be traded off

Places of national importance (PONIs)



- Requirements to identify need to be stronger
- Unclear what the legal test for protection is – avoid more than trivial impacts (good), or apply the effects management hierarchy (bad)
- Again, broad exemptions are possible and need to be constrained

Climate change



- No requirement to give effect to emissions reduction plans
- Not clear if plans can really achieve managed retreat by changing existing land use

Other issues

- Urban trees aren't protected strongly enough
- Confusing structure
- Transitional arrangements are unclear
- Drafting needs improvement

The Spatial Planning Bill

- The Bill provides a framework for creating spatial strategies
- The NBE Bill is probably more important
- The order in which spatial strategies and NBE plans are created is wrong

Concluding comments

The starting point of the NBE Bill is generally good, and strongly protective compared to the RMA. The bones are there.

But this is undermined through carve outs, exemptions, ambiguities and drafting errors.

These things can, and should be fixed in a targeted way, and the Bills should proceed.



Questions and discussion

