Te Uru Kahika Regional and Unitary Councils Aotearoa

POSITION PIECE: ENVIRONMENTAL LIMITS UNDER THE NATURAL ENVIRONMENT ACT

Date: 7 July 2025

Contact: Al Cross
Director, Resource Management Reform
Al.Cross@teurukahika.govt.nz

Te Uru Kahika represents the sixteen regional councils and unitary authorities comprising Aotearoa New Zealand's regional sector. The name Te Uru Kahika reflects the work and vision of the regional sector: *thriving environments and thriving communities*.

We welcome the opportunity to support the Government's objective of building a more efficient, goal-oriented resource management system. We are committed to working constructively with Central Government to deliver a system that is faster to implement, simpler and more cost-effective to operate, and better at enabling economic growth within environmental limits[1].

We bring extensive experience of implementation and resource management at place. We are responsible for integrated management of land, air, coasts, and water resources, supporting biodiversity and biosecurity, providing for regional transport services, and building more resilient communities in the face of climate change and natural hazards. To fulfil these responsibilities we maintain strong, on-going relationships with Central Government, communities, and tangata whenua.

This Position Piece provides our targeted recommendations on how environmental limits could work under the new Natural Environment Act (NEA)[2].

We focus on the pertinent Recommendations 16-18 made Cabinet Paper *Replacing the Resource Management Act 1991 – Approach to development of new legislation*. We agree that environmental limits to protect human health should be set nationally, whereas environmental limits to protect natural systems should be set by regional authorities and allow for local variations. Our recommendations hereafter concern limit-setting to protect natural systems and are offered as a constructive contribution to the legislative development process.

Our recommendations reflect our willingness to move beyond the status quo. Collectively our proposals would constitute a more flexible, risk-based, and scalable approach to environmental limit-setting that builds on what already works, removes unnecessary complexity, and supports innovation and local responsiveness.

We look forward to further discussions with Central Government on this important topic.

[1] See Annex 1 for working definitions of key terms.
[2] Te Uru Kahika plans to produce Position Pieces on other aspects of the resource management system, such as spatial planning and regulatory planning.

OUR RECOMMENDATIONS

1. Assign regional authorities the responsibility for setting environmental limits to protect natural systems

Regional authorities are best placed to understand local ecosystems, pressures, and community aspirations. Assigning this responsibility to regional authorities ensures that environmental limits to protect natural systems will be grounded in local knowledge, responsive to regional variation, and integrated with existing and new planning and delivery systems.

A clear mandate assigned to regional authorities will avoid the inefficiencies of piecemeal or reactive limit-setting. It will provide certainty and consistency for resource users, tangata whenua and communities, while allowing regional authorities to tailor the approach to suit local needs.

Implementation options:

- The NEA should explicitly assign responsibility to regional authorities for setting environmental limits to protect natural systems.
- The NEA should use 'ecosystem health' as the measure for protection of natural systems, rather than 'life-supporting capacity'.[3]
- The NEA should specify the environmental domains for which limit-setting is required to protect natural systems. Initially these domains should include air[4], freshwater, estuaries and coastal water[5], soil, and indigenous biodiversity[6].
- Provisions in the NEA should require interactions across these domains to be managed jointly where necessary to achieve environmental goals[7].
- National direction or associated standards or guidance[8] should provide a consistent yet spatially flexible methodology, to allow regional authorities to tailor implementation to local conditions.

[3] 'Ecosystem health' is used in the NPS-Freshwater and is scientifically defined based on five biophysical components. 'Life-supporting capacity' is a less appropriate goal because degraded environments can still support life, just not necessarily the species or in the condition needed for protection of natural systems.
[4] Air quality primarily affects human health, for which environmental limits would be prescribed nationally, but it can also affect natural systems, so setting limits to protect natural systems should be allowed for.
[5] Regional authorities would be responsible for setting environmental limits in the Coastal Marine Area, and we suggest that biophysical differences may require different limits or limit-setting processes for estuaries compared to coastal marine waters.
[6] As per the RMA definition, indigenous biodiversity is taken to encompass ecosystems as well as species and functions.
[7] For example, meeting environmental limits for estuaries and coastal environments typically requires management of the freshwater and land systems upstream.
[8] This document differentiates between national direction, such as National Policy Statements, versus standards or guidance that would sit separately, provide more detail on methodology, and be easier to update.

2. Ensure environmental limits are grounded in key principles

It would be unwieldy to try to incorporate all aspects of the limit-setting processes directly within the NEA. Rather, listing key principles would provide an appropriately high level of direction towards the end goal. Principles such as manageability, evidence-basis and goal-relevance in relation to resource management system objectives would ensure that limits are not just scientifically sound but also implementable and cost-effective[9].

Implementation options:

- Key principles for environmental limit-setting should be embedded in the NEA and reflected in national direction and associated standards or guidance.
- Regional authorities should be required to demonstrate how each principle has been considered in their limit-setting processes.

3. Adopt a tiered, risk-based approach to limit-setting

A one-size-fits-all process for limit-setting is inefficient and burdensome. A risk-based approach ensures that effort is focused where environmental pressures are greatest, while still maintaining a baseline of protection elsewhere.

Implementation options:

- The NEA should allow regional authorities to prioritise locations and/or domains for limit-setting based on environmental risk.
- The NEA or national direction should provide a national risk assessment framework to guide regional authorities in setting environmental limits to protect at-risk natural systems.
- National direction or associated standards or guidance should provide methodologies and tools for setting environmental limits commensurate to risk, such as the levels of analysis or consultation required for different risk levels.
- Limits should be ‘hard limits’ to give certainty to resource users, communities and tangata whenua. If there are areas where limits need to differ, these should be defined as separate Management Units (MUs) based on a set of principles and criteria defined in the NEA or national direction (see Annex 2).

4. Phased and flexible implementation, building on what we already know

Environmental limit-setting for domains such as freshwater is already supported by existing attributes and MUs. Limit-setting to protect estuaries and coasts, soil health and biodiversity has

[9] See Annex 2 for a draft list of potential principles and criteria that would have value for limit-setting.

an expanding management and scientific basis but may still lack established thresholds or methods for assessing state and defining MUs[10].

It is vital to have the basic framework for limit-setting in place in time to feed into spatial planning. Providing flexibility in the timing for setting limits, with national default values or methods available, would allow regional authorities to implement limit-setting over pragmatic and manageable timeframes. Focusing initially on a core set of well-understood attributes would allow for early implementation, reduce complexity, and build confidence in the system, with other attributes phased in over time. We can offer suggestions based on our experience.

Implementation options:

- National direction should support staged implementation and provide guidance on sequencing. This should include worked examples, case studies, and templates for setting limits in complex or emerging domains.
- The NEA or national direction should specify a small set of initial attributes[11].
- The NEA or national direction should provide default attribute limits, spatially variable as appropriate[12], that regional authorities can adopt or modify with justification.

5. Align limit-setting with planning and consultation processes where possible

Consultation is essential but can be time- and cost-intensive. We recommend that consultation required for environmental limit-setting is combined or aligned with other consultation processes to the extent possible.

For example, community values and objectives typically need to be factored into the setting of environmental limits, and elicitation of such community values and objectives is embedded in various existing and new statutory planning and consultation processes, e.g. under the Local Government Act and potentially under the in-development Planning Act. Aligning with these existing and planned statutory processes reduces costs, avoids duplication, reduces consultation fatigue, and ensures funding and resourcing decisions are integrated.

Implementation options:

- The NEA should allow regional authorities to integrate limit-setting into existing and new planning cycles.

[10] For example see Reframing environmental limits for estuaries and Selecting ecological attributes for managing within environmental limits: an example of a robust science-policy process in Aotearoa New Zealand.

[11] Te Uru Kahika would welcome the opportunity to provide views to MfE on which attributes are most useful for managing particular domains (noting we have already provided views on attributes for freshwater).

[12] Existing guidance already allows for spatial variation in default limits for some attributes, such as for suspended fine sediment to account for river environment class in the NPSFM.

- The NEA and national direction should encourage and enable alignment with Long-Term Plans, spatial plans, etc.

6. Allow use of a range of management tools, as and where appropriate

Several tools are available to manage activities and achieve environmental limits. These include activity restrictions, best management practices, performance standards, education and partnership campaigns, etc. Allowing regional authorities to apply a range of regulatory and non-regulatory tools for managing within environmental limits will minimise costs while maximising flexibility, innovation and efficiency.

Implementation options:

- Where limits are set, the NEA should allow regional authorities to use a range of management tools where they can demonstrate effectiveness in achieving environmental goals.

- National direction and associated standards or guidance should provide criteria for deciding when such management tools are best applied.

7. Make technical advice available but not mandatory

Regional authorities already have scientific and technical expertise in-house and can access external expertise as needed. But having more support to access independent scientific/technical advice would increase robustness, minimise contestation of environmental limits, and help to standardise approaches across the country.

Implementation options:

- The NEA should enable *optional* use of a Technical Advisory Panel (TAP), particularly for high-risk or cross-boundary issues. The TAP should be established and resourced by Central Government and its role should be advisory only.

- Consider having the TAP or a national agency develop default MU maps in consultation with regional authorities and building from MUs already in use. This would assist with national consistency of approach in defining MUs, as well as ensuring MU boundaries are suitably aligned across regional boundaries and environmental domains. Regional authorities should have the ability to adopt these default MUs or adjust their boundaries based on local evidence without needing a formal deviation process.

8. Simplify and centralise reporting and review requirements

Reporting is essential for transparency and accountability, but it must be efficient and targeted. Regular review of environmental limits, approaches used to achieve them, and MU boundaries ensures that new needs and knowledge are incorporated. However, such reviews must not be too frequent or onerous to counteract the benefits they otherwise deliver.

Implementation options:

- The NEA should allow reporting to be staggered or cyclic across domains, or to focus only on high-risk locations or domains where limits are set.

- Consider designation and support of a national, centralised data platform to streamline reporting and support national synthesis, for example expanding on existing arrangements such as National Environmental Monitoring Standards and Land, Air, Water Aotearoa already used by regional authorities.

ANNEX 1 – WORKING DEFINITIONS

Environmental Limit. A biophysical threshold that defines the minimum acceptable state (or maximum allowable pressure) of a natural system to protect human health and/or ecological health. Limits describe environmental conditions that must not be breached and are not permissions for resource use.

Environmental Target. A time-bound and measurable objective that describes a desired trajectory of environmental improvement toward, or beyond, an environmental limit. Targets are used where current conditions do not meet the limit or where communities aspire to exceed it.

Activity Restriction. A regulatory control that limits or conditions human activities (such as discharges, water takes, land use, or development) to ensure compliance with environmental limits or to support the achievement of environmental targets. Activity restrictions are expressed through tools such as resource consent conditions, permitted activity rules, environmental performance standards, or best management practices. Unlike environmental limits, which define the state of the environment, activity restrictions define what people can or cannot do to avoid breaching those limits or to improve environmental condition.

Management Unit (MU). A defined geographic area within which environmental limits and targets are applied consistently for a given attribute. MUs are based on natural systems and practical management needs and are used to support monitoring, planning, and evaluation.

Attribute. A measurable characteristic of the environment used to assess whether a limit or target is being met. Attributes are indicators of environmental state or pressure (e.g. nitrate concentration, sediment load, native fish abundance).

Ancillary parameters. Additional variables that need to be monitored to understand pressures on and impacts arising from an attribute's state and trends, including the effects of management actions.

ANNEX 2 – POTENTIAL PRINICPLES FOR LIMIT-SETTING

Manageable, i.e. practically implementable and achievable with the management tools and 'levers' available to regional authorities[13]. Fundamentally, we disagree with the notion of setting environmental limits that cannot be tractably managed through the capability, capacity and statutory functions of regional authorities. This includes consideration of cost-effectiveness.

Goal-oriented, meaning that the environmental limits, if met, can be shown to measurably support the achievement of the economic, social, cultural, and/or environmental goals sought.

Assessable, meaning that compliance with limits must be measurable and verifiable using direct observations, models, or proxy indicators. Our preference is for quantitative limits where possible, but the legislation should not disallow the use of qualitative limits where more appropriate, such as for cultural or long-term ecological objectives. In either case the limits and targets must be transparent, meaning that they are clearly defined and communicated in a way that is understandable to decision-makers, stakeholders, and the public[14].

Evidence-based, i.e. grounded in fit-for-purpose[15] scientific knowledge and/or mātauranga Māori, to ensure credibility, robustness, and defensibility. Therefore, for the attributes selected for limits:

- Responses to management actions must be reasonably well-understood, and
- Relationships to desired environmental goals must be reasonably well-understood.

Precautionary, meaning that, where there is uncertainty, limits should err on the side of protecting the environment (and/or human health). Greater certainty in understanding the causes of state and trends in the relevant attributes must be sought where systems are close to breaching limits or targets, but greater levels of uncertainty can be tolerated where this is not the case.

The following are potential Criteria that could be defined in the NEA, national direction or standards or guidance for selecting attributes and limits (thresholds) and/or defining MUs.

Social, cultural, economic and environmental goals, because limits must reflect the values and goals of the nation and/or the communities they serve. This may include information on community outcomes defined under the Local Government Act 2002, goals in iwi/Māori

[13] Management tools and 'levers' include but are not limited to national regulations, regional plan regulations, non-regulatory programmes, and compliance, monitoring and enforcement functions.
[14] See Stoffels and White (2024), Quantifying regulatory limits for multiple stressors in an open and transparent way.
[15] Standards or guidance may be required to provide practical definitions of terms such as 'fit-for-purpose' and 'reasonably well-understood' within the context of setting and managing environmental limits and targets. Previous work is available to build on, such as the 2024 MfE report Assessing the strength of scientific evidence for the development of science-informed policy.

participation arrangements and management agreements[16], and/or national plans or strategies (e.g. for infrastructure, energy, food security, etc).

Environmental state and trends, because this knowledge is essential for setting achievable, forward-looking limits. This may include information on past[17], current and/or projected future levels of the specific attributes being managed, including their spatial and temporal variation.

Biophysical boundaries, processes and interactions, because environmental limits must align with the natural systems they operate upon and/or are intended to protect. This may include information on catchments and sub-catchments, airsheds, coastal cells, biomes or ecosystem types, soil and land types, climate zones, and interactions within and across such units.

Current and projected resource use, because these are what we're typically aiming to manage by setting environmental limits. This may include information on locations and rates of extraction or use of natural resources, the sources, fate and transport of pollutants, and/or current infrastructure and land use and planned developments.

Climate change, variability and impacts, because limits must be resilient to future environmental conditions. This may include information on current and projected levels and variations in temperature, precipitation, and other key climate variables.

[16] These could include but not be limited to Treaty settlements, post-settlement governance arrangements, iwi and hapū planning documents, and other agreements developed with tangata whenua — including those relating to natural resources, infrastructure, energy, food security, or regional and national development.
[17] Understanding of historical baselines can help identify the scale of degradation and inform restoration goals. We are not suggesting that the environment should be returned to pre-human 'pristine' condition.