

‘Ecological’ Environmental Benefit Subdivisions FAQs

Purpose: This guidance note provides answers to frequently asked questions about ‘Ecological’ Environmental Benefit (EEB) subdivisions in the Rural Zone. This guidance is focused on applications under Rule 12.13.1 of the Kaipara District Plan 2013 but may also be useful when considering subdivision under the Rural Amenity Lot (Rules 12.13.2) and Integrated Subdivision (Rules 12.13.4 and 12.14.2) Rules.

Note: This guidance note is not intended to provide guidance for ‘Landscape’ Environmental Benefit subdivision.

What is a ‘feature’ for the purpose of an EEB subdivision?

‘Chapter 24 – Definitions’ of the District Plan provides a definition of ‘EEB’ which categorises three types of ‘feature’:

- **Existing indigenous habitats:** this includes stands of established indigenous vegetation or predominantly indigenous vegetation. This may include habitats identified by Department of Conservation’s Protected Natural Areas programme, or areas evaluated by a suitably qualified ecologist to confirm the composition of flora and fauna with consideration to Appendix 25G of the District Plan;
- **Wetlands of ecological value:** this includes wetlands identified by Department of Conservation’s Protected Natural Areas programme, or where ecological value is unknown, it has been evaluated by a suitably qualified ecologist to demonstrate ecological value, with consideration to Appendix 25G of the District Plan. Wetland delineation, in accordance with the New Zealand wetland delineation guidelines, may be required where the extent of the wetland is ambiguous (e.g. modified wetlands).
- **Newly planted or enhanced areas of indigenous re-vegetation:** this includes areas which, in the opinion of a suitably qualified ecologist, strengthen to existing ecological corridors, expand other natural areas or are identified through Council’s Reserves and Open Space Strategy, with consideration to Appendix 25G of the District Plan.

Does the entire ecological feature require protection?

Yes, in accordance with Rule 12.13.1 b), the entire feature must be protected to comply with the EEB Terms of Subdivision. This includes avoiding any impacts on the feature (i.e. indigenous vegetation loss or stream / wetland loss). Where this cannot be achieved, the application will be assessed as a non-complying activity.

What is the minimum site area for an EEB?

The EEB rules require the following minimum areas to comply with the Terms of Subdivision:

- EEB area (legal and physical protection): 5,000m²
- Minimum net site area (per Lot): 4,000m²
- Minimum net site area exclusive of EEB (per Lot): 2,500m²

For a two lot EEB subdivision this provides a minimum parent lot area of 1ha, made up of two lots with 2,500m² net site area exclusive of the EEB for each and 5,000m² of EEB area spread across the two lots. An illustrated example of this is provided below:

Proposed Lot 1 (Net Site Area: 5,000m ²)	Proposed Lot 2 (Net Site Area: 5,000m ²)
EEB Area: 2,500m ²	EEB Area: 2,500m ²
Area free of EEB: 2,500m ²	Area free of EEB: 2,500m ²
Parent Lot Net Area: 10,000m² (1ha)	

Note: 'Note 4' of the EB rule erroneously states that a minimum parent lot area of 1.3ha is required. This is incorrect with the correct minimum of 1ha outlined above.

Does the EEB area need to be fenced and what sort of fencing is required?

Physical protection of the entirety of an EEB area is required in accordance with Rule 12.13.1 b). This should be provided through fencing along all boundaries of the EEB area. Fencing along the boundary of the EEB area (rather than the boundary of the site) is required to provide by protection and physical demarcation of the EB area.

Where stock is, or may be present, '7-wire' fencing, as per paragraph 6 of the second schedule of Fencing Act 1978, is the acceptable standard required.

Where stock will not be present there may be flexibility with regard to fencing typology (i.e. 7-wire fencing may not be required and other fencing typologies may be used). The discretion of this lies with Council only and is considered based on the site context such as topography etc. However, fencing is still required to provide long term protection and physical demarcation of the EEB area.

If my proposal complies with the EEB rule, will it be granted?

Meeting the 'Terms of Subdivision' does not necessarily mean that the application will be granted. The determination is based on the 'Matters of Discretion' – this is what the assessment should focus on rather than relying simply on meeting the Terms of Subdivision.

Once able to meet the rule, matters for discretion include assessment against Appendix 25G. If the assessment does not demonstrate a net environmental benefit for the proposal (including consideration of non-ecological effects), Council is likely to decline consent.

The overall assessment of the proposal also needs to consider the “General Subdivision” matters. This includes wider consideration (beyond ecology) including impacts on existing/planned land use patterns. This does not need to be addressed in the ecological assessment and may be best left to the Planner to provide this broader consideration of effects.

Matters which should be addressed in the ecological assessment include:

- Consider the wider ecological landscape scale coastal wetlands and dunes – e.g. adjacent habitat for breeding birds.
- Newly planted or enhanced areas of indigenous re-vegetation that, in the opinion of a suitably qualified ecologist, strengthen to existing ecological corridors, or expand other natural areas (in accordance with Appendix 25G).
 - Minimum should follow best practice enhancement and restoration (NRC guidelines - Northland natives/wetland).
 - Ecological corridor not defined: generally linking two or more core areas of habitat, may require specific habitat for the movement of a particular species of fauna / flora.
 - No defined distance or width but, similar to above, a minimum of 20m either side of stream would be self-sustaining (reduced maintenance).
- Ecological Significance: A site or area containing indigenous vegetation or habitat considered moderate – high or outstanding. (Appendix 25G) Criteria:
 - Contain critical, endangered, vulnerable, or rare taxa.
 - Contain indigenous or endemic taxa that are threatened or rare in Northland.
 - Contain the best representative examples in an ecological district of habitat type.
 - Have high density of taxa or habitat types for the ecological district.
 - Form ecological buffers, linkages or corridors to other areas of significant vegetation or significant habitats of indigenous fauna.
 - Contain habitat types that are rare in ecological district.
 - Support good populations of taxa which are endemic to the Northland or Northland-Auckland regions.
 - Are important for indigenous or endemic migratory taxa.
 - Support viable populations of species, which are typical of that habitat type within an ecological district and retain a high degree of naturalness.
- Implementation/consequence:
 - This is likely to include almost any well-connected indigenous vegetation.
 - Particularly associated with coastal or freshwater wetlands, permanent streams and indigenous forest, and likely to support mobile fauna species (bats/birds/lizards/fish).
 - Difficult to prove presence / absence of cryptic species without specific survey techniques.

Will there be restrictions on the keeping of cats, dogs, and other pets, and if so, why?

Restrictions which prohibit the keeping of domestic animals such as dogs, cats, mustelids and rodents are often required to support the ecological values associated with an EEB. These restrictions are an important mechanism to minimise the potential effects of development and increased activity in close proximity to ecologically sensitive areas. The specific restrictions which are required depend largely on the ecological context of each site and should be determined based on the direction of specialist ecological advice.

However, in general, the following apply:

- The keeping of cats, mustelids and rodents should be prohibited on any site which is in close proximity to any ecological feature.
- The keeping of dogs should be prohibited on any site which is in close proximity to an ecological feature which is likely to include kiwi habit, or habitat for any other endangered ground-based fauna.
- Where kiwi habit, or habitat for any other endangered ground-based fauna is not present, alternative controls on the keeping of dogs, such as electric containment systems, should be considered to minimise potential adverse effects.

Do I need to engage an ecologist to support my EEB application?

Yes, in most instances a suitably qualified ecologist will be required to confirm that the proposed EEB area meets the Definitions of the District Plan and/or to provide an assessment of the ecological effects associated with the proposal (with regard to the 'Matter of Directions' including Appendix 25G of the District Plan).

The 'Environment Institute of Australia and New Zealand' provides a search directory which can be used to find consultant ecologists:

<https://www.eianz.org/search-directory>

What engineering factors do I need to consider?

The Applicant should provide the following as part of the applications:

- Geotechnical assessment demonstrating building site suitability;
- Transport design demonstrating
- Stormwater design demonstrating management of runoff control;
- Sufficient potable (drinking) water provision;
- Compliance with the Kaipara District Engineering Standards (link provided below):

<https://www.kaipara.govt.nz/services/engineering-standards>

Glossary

<i>District Plan</i>	The 'Kaipara District Plan 2013'.
<i>Terms of Subdivision</i>	The standards which must be achieved to allow a proposal to be considered under the relevant subdivision rule(s). These are listed next to the associated Rule in the Rules Tables of the District Plan.
<i>Matters of Discretion</i>	These are the matters which Council will consider when making a decision on a Restricted Discretionary Activity. These are listed next to the associated Rule in the Rules Tables of the District Plan. Where an activity is 'Discretionary' or 'Non-Complying', Council may extend the matters of consideration to include any other matters it considers relevant.
<i>EEB</i>	Ecological Environmental Benefit. See and 'Chapter 24 – Definitions' in the District Plan for further detail.

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