

Before the Independent Hearing Panel  
Appointed by the Timaru District Council

Under	Schedule 1 of the Resource Management Act 1991 ( <b>RMA</b> )
In the matter of	Submissions on the Proposed Timaru District Plan
Between	<b>Various</b>
	Submitters
And	<b>Timaru District Council</b>
	Respondent

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**Andrew Cameron Maclellan - s42A summary statement – Hearing F**  
**Public Access, Activities on the Surface of Water, and Versatile Soil**

23 April 2025

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**anderson  
lloyd.**

## **Introduction**

- 1 My name is Andrew MacLennan. I am an Associate at the firm Incite. I prepared the s42A report on the Public Access, Activities on the Surface of Water, and Versatile Soil. I confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order objectives relevant to my section 42A report. I have the qualifications and experience as set out in my s42A report.
- 2 The purpose of this summary is to provide the Panel and submitters with the following:
  - (a) Brief summary of key issues raised in submissions;
  - (b) Corrections I wish to make to my s42A report; and
  - (c) A list of issues raised in evidence prior to the hearing, including identifying (where possible):
    - (i) issues that are resolved on the basis of the pre-circulated evidence; or
    - (ii) issues that remain outstanding pending the hearing of evidence.

## **Summary of key issues**

### **PA – Public Access Chapter**

- 3 In my s42A report, I identified the following matters as the key issues raised in submissions:
  - (a) Clarification of private property rights within the PA chapter.
  - (b) Amendments to PA-O1, seeking greater clarity on when public access should be restricted.
  - (c) Minor amendments are sought to PA-P1 – PA-P4 to improve the clarity and refine the policies.
  - (d) Amendments to remove parts of the Public Access Provisions Overlay (PAPO).
- 4 I note that all of these issues appear to be resolved with respect to the evidence lodged. The recommended amendments to PA Chapter Public Access Provision Overlay (PAPO) are supported by Ms Eng for

Transpower, Mr Walsh for PrimePort, Ms Francis for ECAN, and Ms Williams for DOC.

ASW – Activities the Surface of Water Chapter

- 5 In my s42A report, I identified the following matters as the key issues raised in submissions:
  - (a) Amend AWS-O1 to provide a more flexible threshold of adverse effects.
  - (b) Provide more flexibility for the recreational use of motorised craft within the policy and rule framework.
  - (c) Amend the rule framework to provide for temporary military training activities.
  - (d) Align the rule framework for the recreational use of motorised craft with the neighbouring Councils.
  - (e) Enable the recreational use of motorised craft on three additional rivers (Te Ngawai, Te Moana and Waihi Rivers).
- 6 Of the above, I note that those that appear to remain outstanding, with respect to the evidence lodged, are:
  - (a) Ms Francis for ECAN seeks an amendment to ASW-O1 to ensure the District's rivers are protected from inappropriate adverse effects of activities.
  - (b) Ms Williams of DOC seeks a number of amendments to the provisions within the ASW chapter including:
    - (i) The addition of "non-commercial" within ASW-P3;
    - (ii) Amendments to the temporal restrictions within ASW-R4, ASW-R5, ASW-R6 to align with the evidence of Mr Lagrue for DOC which suggests that recreational use of motorised crafts should be undertaken between February and July to avoid the bird breeding season.
  - (c) Ms Williams also raises two anomalies within proposed rule ASW-R3:
    - (i) Above Red Rocks, the rule includes two clauses that relate to protecting fish spawning areas (a time limit and mapping overlay);

- (ii) There are no temporal restrictions on the Rangitata River to prevent recreational use of motorised crafts within bird breeding season.
  - (d) Ms Williams seeks amendments to ASW-R3 to include temporal restrictions over the bird breeding season or suggests that the rule should be re-considered as part of a comprehensive review with the involvement of key stakeholders and the Ashburton District Council.
- 7 In my view, given the submissions on ASW-R3 supported the rule as notified and the only amendment sought was to fix a minor error to refer to the correct schedule, I do not think there is scope to amend ASW-R3 as sought by Ms Williams.

#### VS – Versatile Soils Chapter

- 8 In my s42A report, I identified the following matters as the key issues raised in submissions:
- (a) Amend the VS chapter to better align it with the NPS-HPL 2022.
  - (b) Delete or amend part of the Versatile Soils Overlay.
- 9 I note that all of these issues appear to be resolved with respect to the evidence lodged. Ms Tait for Fonterra considers that the recommended amendments to VS Chapter achieve, to the extent possible, the outcomes sought by Fonterra, noting that a plan change is necessary to fully implement NPS-HPL.

#### **Corrections to my s42A report**

- 10 Ms Tait for Fonterra notes that the amendments to the “Rural Areas description” recommended by Council officers within Hearing A are not reflected in the “Rural Areas description” within my s42A Report. I acknowledge this is an error that I will resolve within my reply report.
- 11 Ms Williams for DOC notes that the recommended drafting of ASW-P3 refers to “commercial recreational use of motorised craft” rather than “non-commercial recreational use of motorised craft”. I acknowledge this is an error in the recommended drafting, and it should refer to “non-commercial recreational use of motorised craft”.
- 12 Within their submission, Dir. General Conservation [166.96] seeks the following amendments to SCHED13:

- (a) Include an extended Fish Spawning Area including the Upper Rangitata River as Upland Longjaw galaxias habitat.
  - (b) Consider other native fish, such as Inanga and Stokells smelt, within the Timaru District, where the associated rules for surface water activities should also apply.
- 13 Within my s42A report, my response to this submission point was that Schedule of Fish Spawning Areas included within SCHED 13 aligns with the “Critical Habitats – Rivers” mapping included within Plan Change 7 (PC7) to the Canterbury Land and Water Regional Plan.
- 14 I have since reviewed the mapping of the Fish Spawning Area in the Rangitata River identified within the PDP and compared them against the “Critical Habitat” mapping within the Canterbury Land and Water Regional Plan. The mapping within the SCHED13 of the PDP appears to be a mixture of the “Critical Habitat” and “Salmon Spawning Sites” overlays included within Plan Change 7 (PC7) to the LWRP as notified.
- 15 Through the PC7 hearing process the mapping of the “Critical Habitat” overlay was amended and now does not align with FSA-5, FSA-6, and FSA-7. As such, I recommended that:
- (a) FSA-5 is amended to align with the equivalent “Critical Habitat” mapping with the operative LWRP (page 2 of Appendix B).
  - (b) FSA-6 within the PDP be deleted (page 2 of Appendix B).
  - (c) FSA-7 within the PDP is extended to align with the equivalent “Critical Habitat” mapping with the operative LWRP (page 3 of Appendix B).
  - (d) A new FSA-6 is created north of FSA-7 (page 4 of Appendix B).
- 16 Maps showing the comparison between FSA-5, FSA-6, and FSA-7 and the equivalent “Critical Habitat” mapping are included within **Appendix B**.
- 17 For completeness, I note that no amendments are required to SCHED 13 as the recommended amendments align FSA-5, FSA-6, and FSA-7 with the equivalent “Critical Habitat” mapping but the descriptions within SCHED 13 remain the same.

#### **List of resolved and outstanding issues**

- 18 A list of issues that are either resolved on the basis of pre-circulated evidence, or that remain outstanding pending the hearing of evidence, is attached at **Appendix A** in order to assist the Panel.

### **Updates to recommendations**

- 19 Other than as reflected in **Appendix A** and in the assessment below, I have not provided a preliminary view on all outstanding matters at this time, as I wish to hear the evidence and the Panel questions before I provide updated recommendations. I understand that I will have the opportunity to provide a formal response to the matters heard at the hearing.

**Andrew MacLennan**

**23 April 2025**

## APPENDIX A

### Status of issues raised in evidence – Public Access, Activities on the Surface of Water, and Versatile Soil – Hearing F

Notes:

- 1 *Status: The status of the issue reflects my understanding of the status of resolution as between those submitters who pre-circulated evidence for Hearing F. It does not attempt to reflect whether the issue is agreed between submitters who did not pre-circulate evidence for Hearing F.*
- 2 *Status: An asterisk (\*) against the status denotes where I have made an assumption based on the amendments I have recommended. However, I am not certain as to that status because the amendments I have recommended are different to that sought by the submitter.*
- 3 *Relevant submitters: Relevant submitters are those who pre-circulated evidence for Hearing F. Other submitters who did not pre-circulate evidence may be interested in the issue (as submitters in their own right, or as further submitters) but they have not been listed here.*
- 4 *Orange shading identifies matters still outstanding.*

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
<u>Amendment to the Public Access Overlay and Schedule 11</u>  Mr Walsh supports the submission from PrimePort that the Public Access Overlay and Schedule 11 be amended so that the Public Access Provisions do not apply north of Talbot Street.  (Walsh evidence, at para [115])	Public Access Overlay and Schedule 11	Resolved	PrimePort [175.5]
<u>PA-O1</u>  Mr Walsh supports the submission from PrimePort that seeks an amendment to PA-O1. He considered the officers amendments replacing the word 'desirable' with 'appropriate' are sufficient to address the concerns raised by PrimePort.  (Walsh evidence, at paras [116 - 117])	PA-O1	Resolved	PrimePort [173.38]
<u>PA-P4</u>	PA-O1	Resolved	Dir. General Conservation [166.78]

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
Ms Williams supports the s42a report recommendation and analysis to amend PA-P4.  (Williams evidence, within table on page 28)			
<u>PA-P4</u>  Ms Eng supports the s42a report recommendation and analysis to amend PA-P4.  (Eng evidence, within table on page 10)	PA-P4	Resolved	Transpower [159.84]
<u>PA-P4</u>  Mr Walsh supports the submission from PrimePort which supported the PA-P4. He has no issue with the officers recommendation to add a further criterion to this policy  (Walsh evidence, at paras [118])	PA-P4	Resolved	PrimePort [175.4]
<u>ASW-O1</u>  Ms Francis seeks an amendment to ASW-O1 to ensure the District's rivers are protected from inappropriate adverse effects of activities.  (Francis evidence, at para [57 – 62])	ASW-O1	Outstanding	ECan [183.105]
<u>ASW-O1</u>  Ms Williams supports the s42a report recommendation and analysis to amend ASW-O1.	ASW-O1	Resolved	Dir. General Conservation [166.85]



Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
(Williams evidence, within table on page 28)			
<u>ASW-P3</u>  Ms Williams supports the s42a report recommendation and analysis to amend ASW-P3 but considers the policy should refer to “ <u>non</u> -commercial recreational use of motorised craft”.  (Williams evidence, at para [33 – 34])	ASW-P3	Resolved	Dir. General Conservation
<u>Temporal restrictions</u>  Ms Williams seeks amendments to the temporal restrictions within rules ASW-R4, ASW-R5, and ASW-R6 to align with the bird breeding season.  (Williams evidence, at para [33 – 34])	ASW-R4, ASW-R5, and ASW-R6	Outstanding	Dir. General Conservation [166.89, 166.90,166.91]
<u>ASW-R3</u>  Ms Williams considers there are two anomalies within proposed rule ASW-R3:  a. For the section of the Rangitata River above Red Rocks (ASW-R3(1), the rule includes two clauses that relate to fish spawning areas (a time limit and mapping overlay) that restrict the use of recreational motorised craft.  b. There is no time restrictions linked to the bird breeding season for the entire length of the Rangitata River. This is inconsistent with the	ASW-R3	Outstanding	Dir. General Conservation

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
<p>other rules and proposed objective and policy ASW-O1 and ASW-P3.</p> <p>(Williams evidence, at para [47])</p>			
<p><u>VS Chapter</u></p> <p>Ms Tait considers that the recommended amendments to VS Chapter achieve to the extent possible, the outcomes sought by Fonterra, noting that a plan change is necessary to fully implement NPS-HPL.</p> <p>(Tait evidence, at para [7.1 - 7.3])</p>	VS Chapter	Resolved	Fonterra [165.80 and 165.81]

## **APPENDIX B – Recommended amendments to FSA mapping**

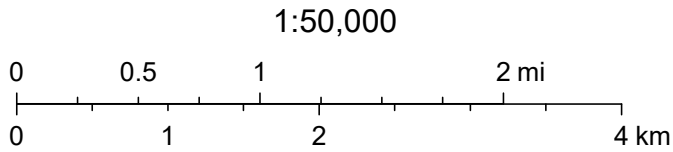


# PDP Upper Rangitata FSA vs LWRP PC7 Critical Habitat



April 15, 2025

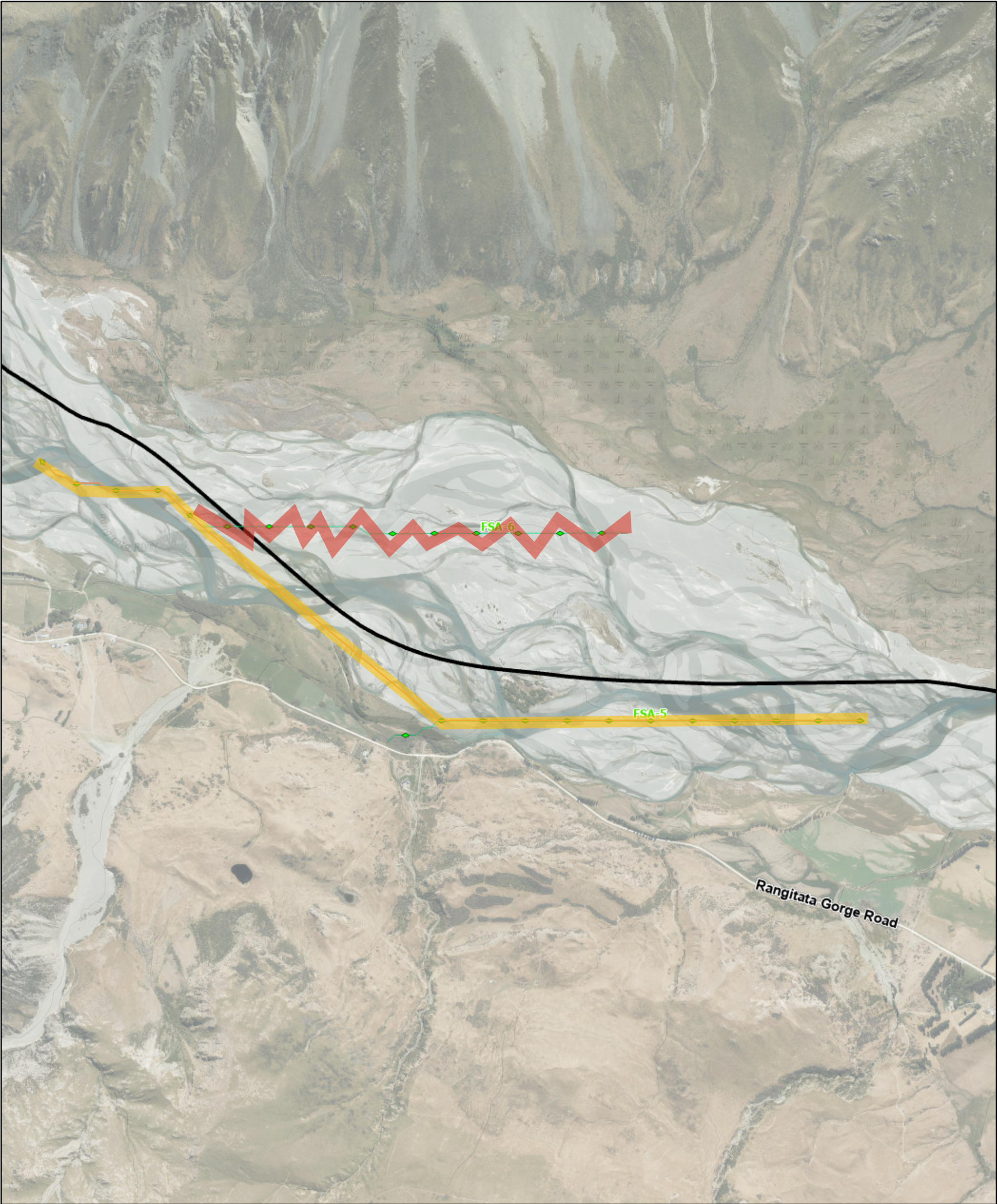
- PDP Fish Spawning Areas Timaru
- PC7 Critical Habitat
- District Boundary



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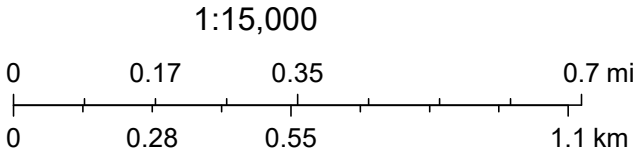


Realign FSA-5 (yellow highlight) Remove FSA-6 (red highlight)



April 15, 2025

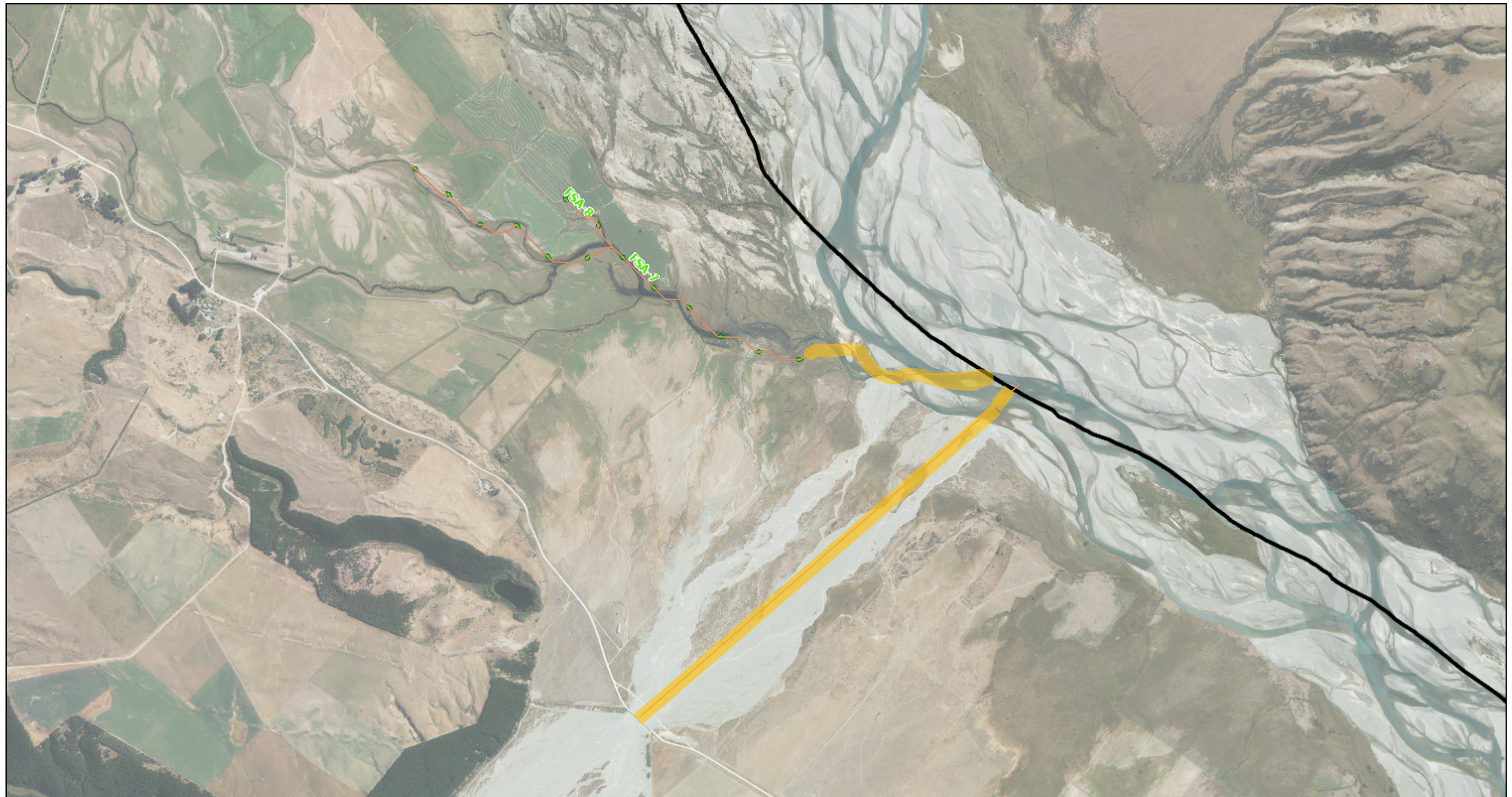
- ◆ PDP Fish Spawning Areas Timaru
- PC7 Critical Habitat
- District Boundary



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# PDP Additions to FSA-7 (Yellow)



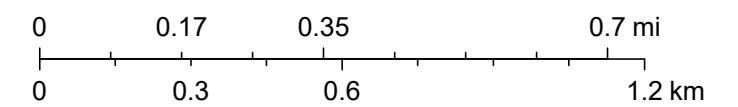
April 15, 2025

◆ PDP Fish Spawning Areas Timaru

— PC7 Critical Habitat

□ District Boundary

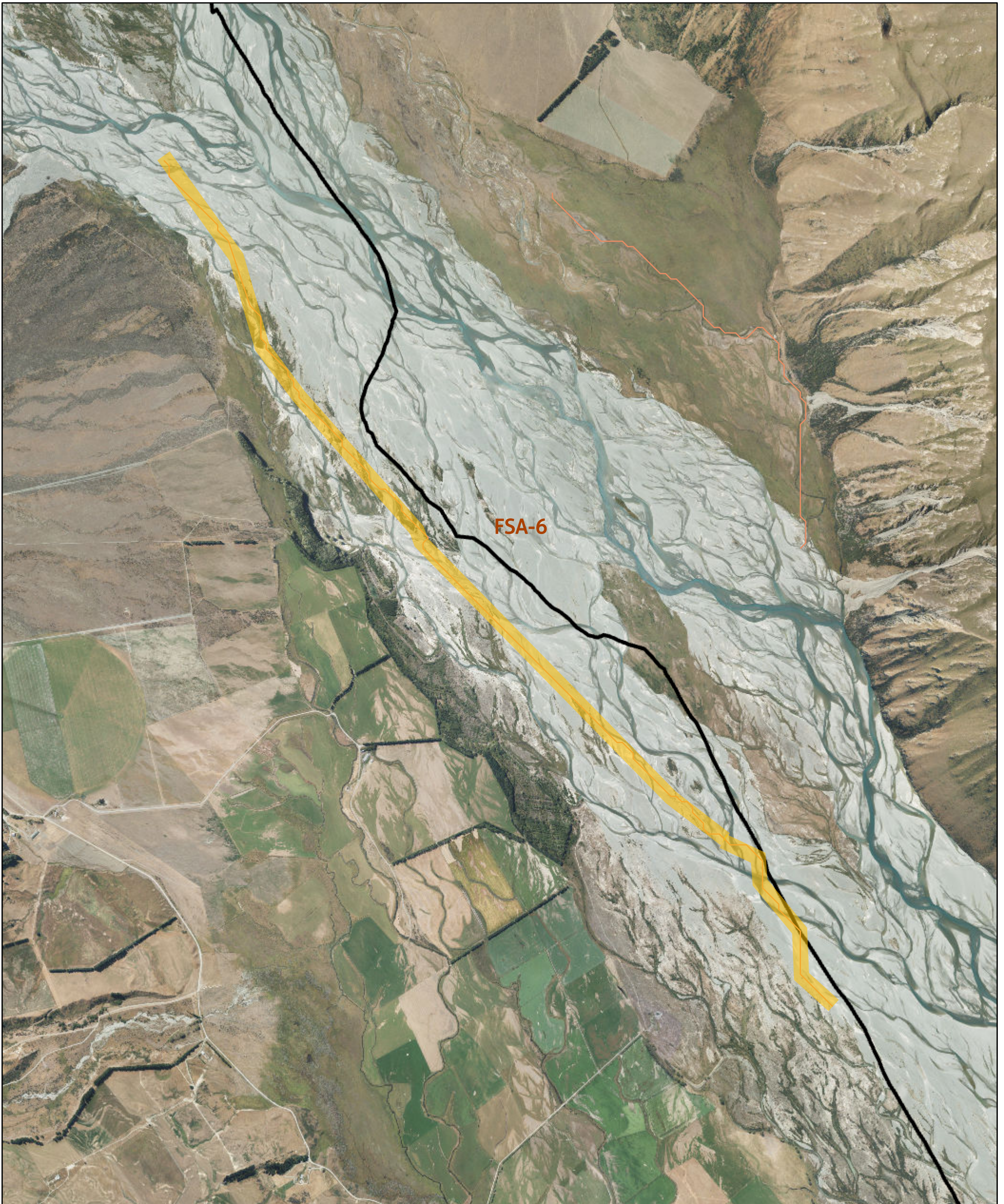
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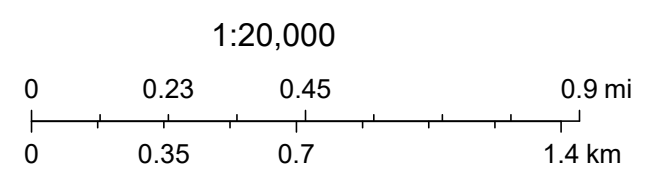


# New FSA-6 (yellow highlight)



April 22, 2025

 Timaru District Boundary



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