

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14 of the
First Schedule to the Act

BETWEEN SOUTHLAND REGIONAL
COUNCIL

(ENV-2007-CHC-140)

Appellant

AND SOUTHLAND DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J A Smith sitting alone under section 279 of the Act

In Chambers at Christchurch

CONSENT ORDER

Introduction

- [1] The Court has read and considered the appeal, the respondent's reply, and the memorandum of the parties received on 20 August 2007 .
- [2] No other person has given notice of an intention to become a party under s274.



[3] The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order;
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

Order

[4] Therefore the Court orders, by consent, that the Southland District Council is directed to modify Proposed Plan Change No 4 – Wilding Trees in the Mountain Resource Area, and the Southland District Plan as set out below:

- a) Policy MRA.3 be amended by the addition of the underlined words as follows:

Policy MRA.3.

To mitigate or avoid the adverse effects of Wilding Trees in the Mountains Resource Area while recognizing the need for the repair and / or maintenance of existing soil conservation and river protection works undertaken pursuant to Rule MRA.3a.

- b) Rule MRA.3 – Prohibited trees be amended by the addition of the underlined words as follows:



“Except as provided for by Rule MRA.3a planting of the following species in the Mountains Resource Area is a prohibited activity.....”

- c) The following Rule MRA.3a – Crack Willow be inserted.

Rule MRA.3a – Crack Willow

1. *The planting of Crack Willow (Salix Fragilis) for the purpose of the repair and / or maintenance of existing soil conservation and river protection works undertaken pursuant to the Soil Conservation and Rivers Control Act 1941 by Southland Regional Council is a permitted activity in each of the river reaches shown on the maps in Schedule 6.24, provided the planting is sourced from that reach.*
2. *For the purposes of this rule repair and / or maintenance includes lopping and layering (the process of felling existing trees on the ground while maintaining an adequate connection with the stump such that vigorous regrowth is encouraged), retrieval and replanting or removing whole trees to fill gaps in river edge protection as a result of flood events.*

Explanation:

Crack Willow (Salix fragilis) is only to be used by the Southland Regional Council within the reaches and shown on the Maps in Schedule 6.24 where it already exists. No tree will be transported to another catchment or to those parts of the catchment where it does not already exist or where through consultation with river management liaison groups the decision has been to eradicate and / or use other species or means for management of their river control problems.




As part of the river management programmes that use Crack Willow (Salix fragilis), Southland Regional Council manages any escaped or unwanted growth with annual programmes of chemical application. These programmes have a long term funded commitment to prevent build-up of unwanted vegetation within the flood fairways which by default eradicate any unwanted growth and / or escape of Crack Willow (Salix fragilis) from installed river edge erosion protection works.

- d) An additional Schedule be inserted described as 6.24 Mountain Resource Area, Wilding Trees. Identified River Reaches Rule MR4. The Schedule shall consist of the Maps A, B and C that are attached to this consent order.

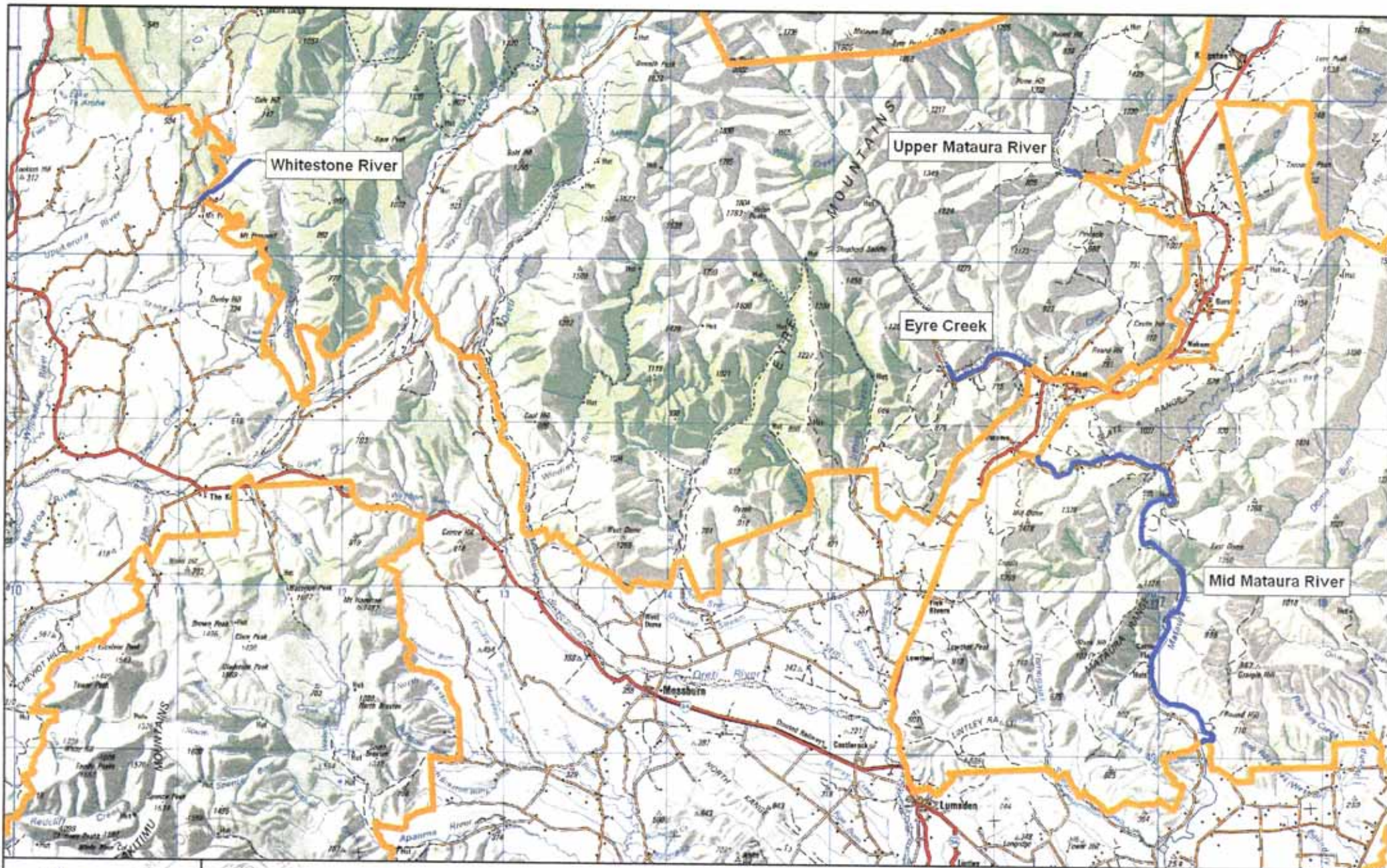
[5] The appeal is otherwise dismissed.

[6] There being no reference to cost in the memorandum of the parties requesting this consent order, there will be no orders for costs.

DATED at CHRISTCHURCH 22nd August 2007.


J A Smith
Environment Judge
Issued: 23 AUG 2007





Map A: Mountain Resource Area - Southland District Council
(Identified River Reaches)

Schedule 6.24 Wilding Trees Maps

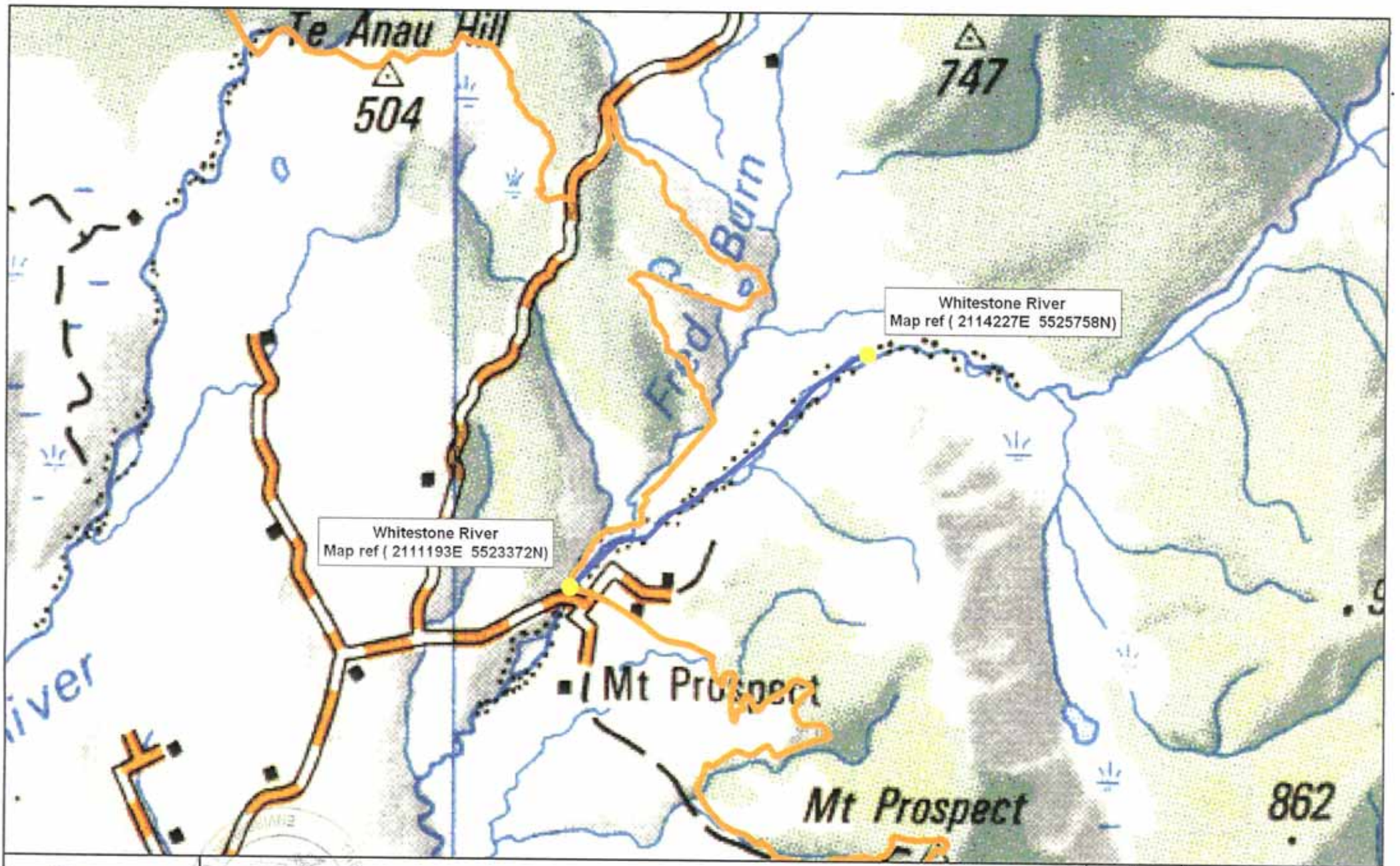
Date: 3/08/2007

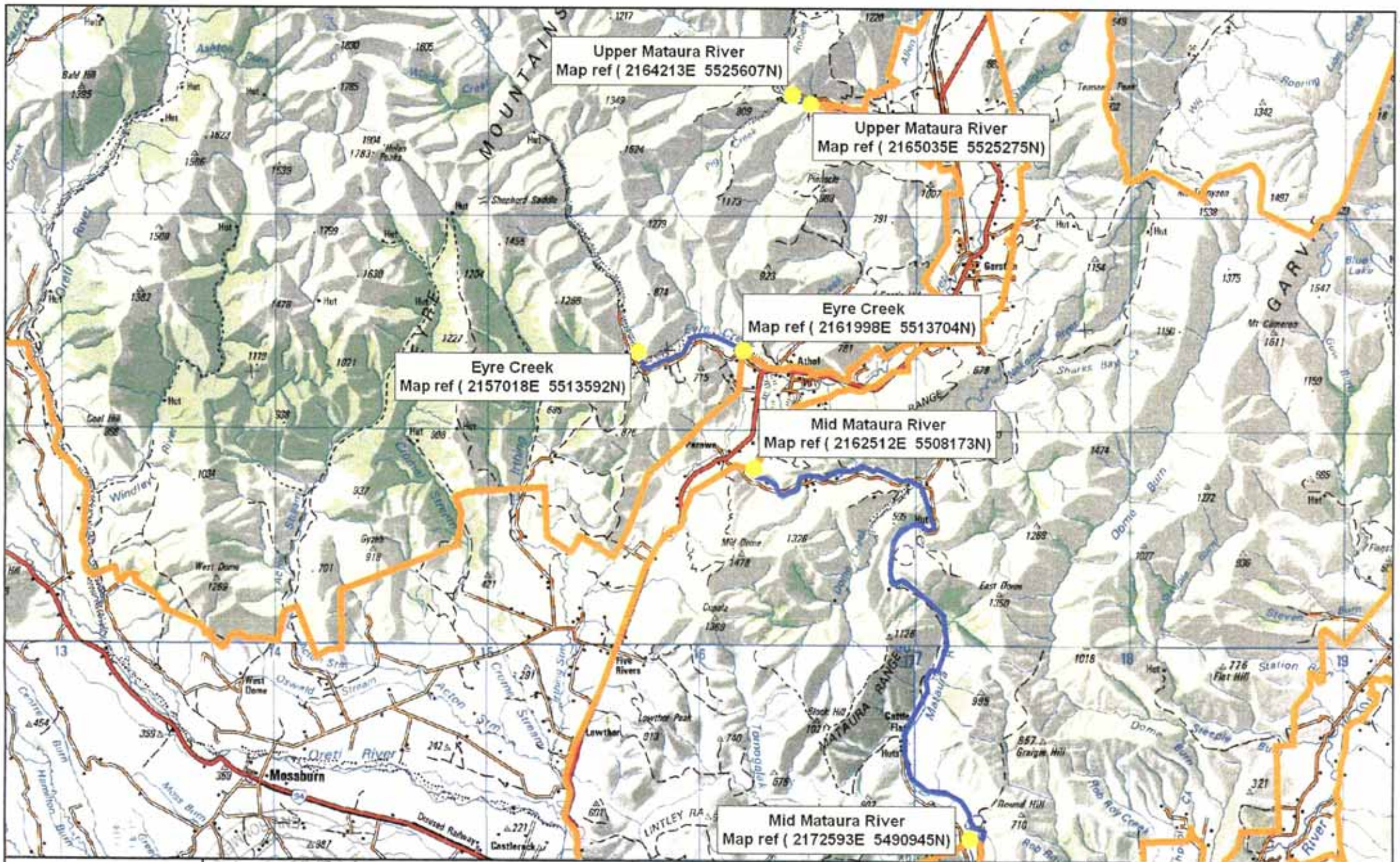


Legend

- Identified River Reach
- Mountain Resource Area

Prepared from SDC GIS Dept data





Upper Matura River
Map ref (2164213E 5525607N)

Upper Matura River
Map ref (2165035E 5525275N)

Eyre Creek
Map ref (2157018E 5513592N)

Eyre Creek
Map ref (2161998E 5513704N)

Mid Matura River
Map ref (2162512E 5508173N)

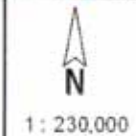
Mid Matura River
Map ref (2172593E 5490945N)



Map C: Eyre Creek & Matura River Reaches

Schedule 6.24 Wilding Trees Maps

Date: 3/08/2007



Legend

- Free Public Domain
- MATAURA RIVER
- Wilding Forest

Prepared from SDC GIS Dept data