

**Queenstown Lakes District Proposed District Plan  
Section 32 Evaluation  
Variation to Proposed District Plan**

**For:  
Variation to Maps 31a, 32 and 37**

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## 1. EXECUTIVE SUMMARY

Rule 9.5.1.3 Building Height – Flat sites in Queenstown and Rule 9.5.3.3 – Building Height – Sloping Sites in Queenstown, have been erroneously applied to High Density Residential (HDR) zoned properties below Frankton Road from (and including) Lot 3 DP 343088 and Lot 6 DP 369635, extending east (and including) to Lot 12 DP 10787 (723 Frankton Rd). These sites are shown in pink in the figure below. For context, the rules are stated in full in **Appendix 1**.

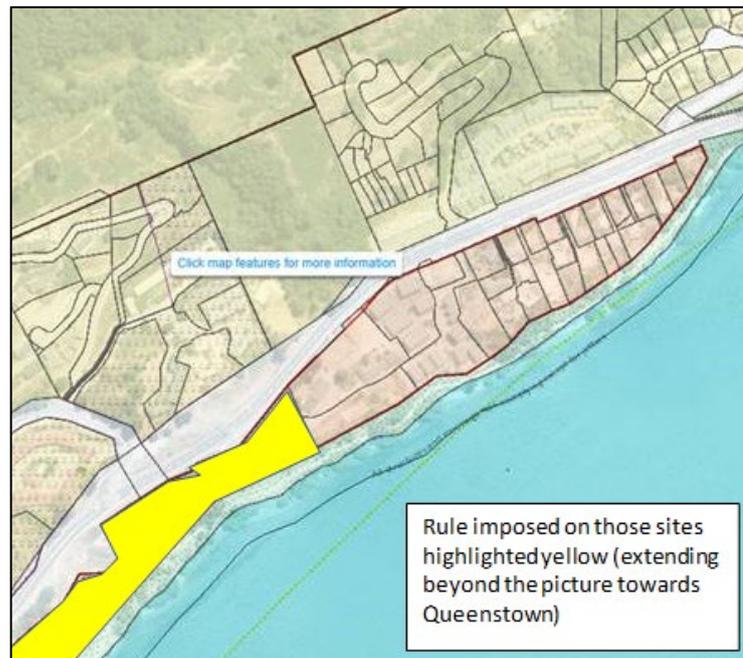


Figure 1 – ODP Zoning and Rule extent

Removal of these sites from the mapped area subject to Rule 9.5.1.3 and Rule 9.5.3.3 (demarcated as “specific rules apply/subject to Rules 9.5.1.3 and 9.5.3.3”), needs to occur by way of a variation to the Proposed District Plan (PDP). The mapping changes, being the complete variation, are given in **Appendix 2**.

This variation will assist the Council to fulfil its statutory functions and responsibilities as required by the Resource Management Act 1991 (‘the Act’ or ‘the RMA’).

## 2. INTRODUCTION

- 2.1. This report fulfils the requirements of Section 32 of the Act, which requires the objective(s) of proposals to be examined for their appropriateness in achieving the purpose of the Act, and the policies and methods of those proposals to be examined for their costs, benefits, efficiency, effectiveness and risk in achieving the objectives.

The purpose of this proposal is to remove the mapping control that imposes Rule 9.5.1.3 and 9.5.3.3 from HDR zoned properties below Frankton Road from (and including) Lot 3 DP 343088 and Lot 6 DP 369635, extending east (and including) to Lot 12 DP 10787 (723 Frankton Rd).

- 2.2. This proposal is a variation to Maps 31a, 32 and 37 of the Proposed District Plan, through a schedule 1 process.

### **3. STRUCTURE OF THE REPORT**

- 3.1. This report provides an analysis of the policy response proposed by the variation as required by s32 of the RMA, using the following sections:

- a) **Consultation** undertaken, including engagement with iwi authorities on the proposal.
- b) An overview of the applicable **Statutory Policy Context**.
- c) A description of the **Resource Management Issues** being addressed by the proposal.
- d) An assessment of the **scale and significance** of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.
- e) An **Evaluation** against s32 of the RMA, including
  - Whether the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (Section 32(1)(a)).
  - Whether the provisions (policies and methods) are the most appropriate way to achieve the objectives of the proposal (Section 32(1)(b)), including:
    - (i) identifying other reasonably practicable options for achieving the objectives
    - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of risk of acting or not acting, and
    - (iii) summarising the reasons for deciding on the provisions.

### **4. CONSULTATION**

- 4.1. The following consultation was undertaken in the development of the proposal:  
An outline of the proposed changes for additional variations to the PDP as part of Stage 3 of the District Plan Review, including the variation to the change the areal extent subject to HDRZ Rules 9.5.1.3 and 9.5.3.3 as shown on Maps 31a, 32 and 37, was circulated to Kāi Tahu (Aukaha), on 10 July 2019.

4.2. The following advice was received by the relevant iwi authorities:

A statement was received from Aukaha on 21 July 2019 confirming that they had no issues or comments in relation to this variation as part of Stage 3 of the Proposed District Plan.

4.3. Therefore, there is no feedback to consider or incorporate into this report.

## 5. STATUTORY POLICY CONTEXT

5.1. The relevant requirements of the RMA, the Local Government Act 2002, and the two iwi management plans that apply in the District<sup>1</sup> have been given appropriate regard in the preparation of this proposal. There are no relevant National Policy Statements or National Environmental Standards.

5.2. The relevant provisions of the Otago Regional Policy Statement, both operative and proposed, have been considered in the preparation of this proposal. This proposal is required to give effect to the operative provisions of the RPS and have regard to the proposed provisions.

### Partially Operative Regional Policy Statement 2019

Reference	Detail
Issue	The social and economic wellbeing of Otago's communities depends on use and development of natural and physical resources. Loss or degradation of resources can diminish their intrinsic values and constrains opportunities for use and development now and into the future. Some of Otago's resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.
Objective 1.1	Otago's resources are used sustainably to promote economic, social and cultural wellbeing for its people and communities
Policy 1.1.1	Economic Wellbeing – Provide for the economic wellbeing of Otago's people and communities by enabling the resilient and sustainable use and development of natural and physical resources.  <i>Methods: Regional, City and District Council Relationships, Regional Plans and City and District Plans</i>
Issue	Natural and physical resources are interconnected, complex and should be managed in an integrated, sustainable, consistent and effective way because the use of one resource may adversely affect another. Inefficient and ineffective responses or unexpected adverse effects can occur when activities

<sup>1</sup> *The Cry of the People, Te Tangi a Tauira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008), and *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005)

	affecting a resource are undertaken by different resource users, governed by different legislation, or administered by different local authorities. Plans need to address diverse and conflicting interests.
Objective 1.2	Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago
Policy 1.2.1	Integrated resource management - Achieve integrated management of Otago's natural and physical resources
Issue	Unplanned urban growth and development risks exceeding the carrying capacity of existing infrastructure and services, adversely affecting community resilience. Unanticipated growth places pressure on adjoining productive land, and risks losing connectivity with adjoining urban areas. Urban development has not always had regard for the local environment or the needs of the community.
Objective 4.5	Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments

#### **Partially Operative Regional Policy Statement 1998**

Reference	Detail
Objective 5.4.1	To promote the sustainable management of Otago's land resources in order: (a) To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and (b) To meet the present and reasonably foreseeable needs of Otago's people and communities.
Objective 5.4.2	To avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource.
Objective 5.4.3	To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.
Policy 5.5.2	To promote the retention of the primary productive capacity of Otago's existing high class soils to meet the reasonably foreseeable needs of future generations and the avoidance of uses that have the effect of removing those soils or their life-supporting capacity and to remedy or mitigate the adverse effects on the high class soils resource where avoidance is not practicable.
Policy 5.5.4	To promote the diversification and use of Otago's land resource to achieve sustainable land use and management systems for future generations.
Policy 5.5.5	To minimise the adverse effects of land use activities on the quality and quantity of Otago's water resource through promoting and encouraging the: (a) Creation, retention and where practicable enhancement of riparian margins; and (b) Maintaining and where practicable enhancing, vegetation cover, upland bogs and wetlands to safeguard land and water values; and (c) Avoiding, remedying or mitigating the degradation of groundwater and surface water resources caused by the introduction of contaminants in the form of chemicals, nutrients and sediments resulting from land use activities.
Objective 6.4.2	To maintain and enhance the quality of Otago's water resources in order to meet the present and reasonably foreseeable needs of Otago's communities.

Issue 9.3.1	<p>The adverse effects of urban development and settlement can impact upon the quality of the built environment and on the use of natural and physical resources.</p> <p>Explanation: It is important that a balance is achieved in maintaining the quality of the built environment as a place to live, while providing opportunities for economic change, growth and residential choice</p>
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### **Proposed Regional Policy Statement 2015**

5.3. Section 74(2) of the RMA requires that a district plan prepared by a territorial authority shall "have regard to" any proposed regional policy statement. The Proposed Otago Regional Policy Statement (PRPS) was notified for public submissions on 23 May 2015, and decisions on submissions were released on 1 October 2016. A number of provisions were appealed. Consent orders have been issued for most appeals and these now form the PORPS 19. There are no relevant objectives and policies from the PRPS Decision version: 1 October 2016.

### **Proposed District Plan**

5.4. The following objectives and policies of the PDP are relevant and have been given due regard in the development of proposal:

### **Strategic Direction Chapter 3**

Plan Reference	Provision
<b>Objective 3.2.2</b>	<b>Urban growth is managed in a strategic and integrated manner</b>
Policy 3.2.2.1	<p>Urban development occurs in a logical manner so as to:</p> <ul style="list-style-type: none"> <li>a. promote a compact, well designed and integrated urban form;</li> <li>b. build on historical urban settlement patterns;</li> <li>c. achieve a built environment that provides desirable, healthy and safe places to live, work and play;</li> <li>d. minimise the natural hazard risk, taking into account the predicted effects of climate change;</li> <li>e. protect the District's rural landscapes from sporadic and sprawling development;</li> <li>f. ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;</li> <li>g. contain a high quality network of open spaces and community facilities; and</li> <li>h. be integrated with existing, and planned future, infrastructure.</li> </ul>

**Urban Development Chapter 4**

<b>Plan Reference</b>	<b>Provision</b>
<b>Objective 4.2.2B</b>	<b>Urban development within Urban Growth Boundaries that maintains and enhances the environment and rural amenity and protects Outstanding Natural Landscapes and Outstanding Natural Features, and areas supporting significant indigenous flora and fauna.</b>
Policy 4.2.2.1	Integrate urban development with the capacity of existing or planned infrastructure so that the capacity of that infrastructure is not exceeded and reverse sensitivity effects on regionally significant infrastructure are minimised.
Policy 4.2.2.2	Allocate land within Urban Growth Boundaries into zones which are reflective of the appropriate land use having regard to (relevant criteria listed): <ul style="list-style-type: none"> <li>a. its topography;</li> <li>b. its ecological, heritage, cultural or landscape significance if any;</li> <li>c. any risk of natural hazards, taking into account the effects of climate change;</li> <li>d. connectivity and integration with existing urban development;</li> <li>e. convenient linkages with public transport;</li> <li>f. the need to provide a mix of housing densities and forms within a compact and integrated urban environment;</li> <li>g. the need to make provision for the location and efficient operation of regionally significant infrastructure.</li> </ul>

**Tangata Whenua Chapter 5**

5.5. No objectives and policies in this Chapter were identified as relevant to this proposal.

**6. RESOURCE MANAGEMENT ISSUES**

6.1. The ODP Residential Rule: Height and Elevation Restrictions along Frankton Road is as follows:

*“The intrusion of a single building element on the south side of Frankton Road (SH6A) in the High Density Residential Sub-Zone A of no more than one story in height above the centreline of Frankton Road and limited to a length parallel to the road of not more than 10% of the length of the road frontage (to a maximum of 16 metres), used solely for access, reception and lobby uses related to the predominant use of the site shall be a Restricted Discretionary Activity in respect of Assessment Matter 7.7.2 xiii Urban Design Protocol*

*This rule applies to those properties from Cecil Road (Paper Road) to, and including, Lot 1 DP 12665.”*

- 6.2. The notified PDP Stage 1 provisions did not contain rules relating to this area. Submission #520 sought introduction of above ODP rule into PDP. Submission #208 also sought ODP rules, but more general than just applying that specific rule.
- 6.3. The following key issue has been identified as the central theme associated with the proposal:

Rules 9.5.1.3 and 9.5.3.3 have been erroneously applied to HDR zoned properties below (within the yellow outline) Frankton Road from (including Lot 3 DP 343088 and Lot 6 DP 369635), extending east (and including) to Lot 12 DP 10787 (723 Frankton Rd), being the eastern boundary.

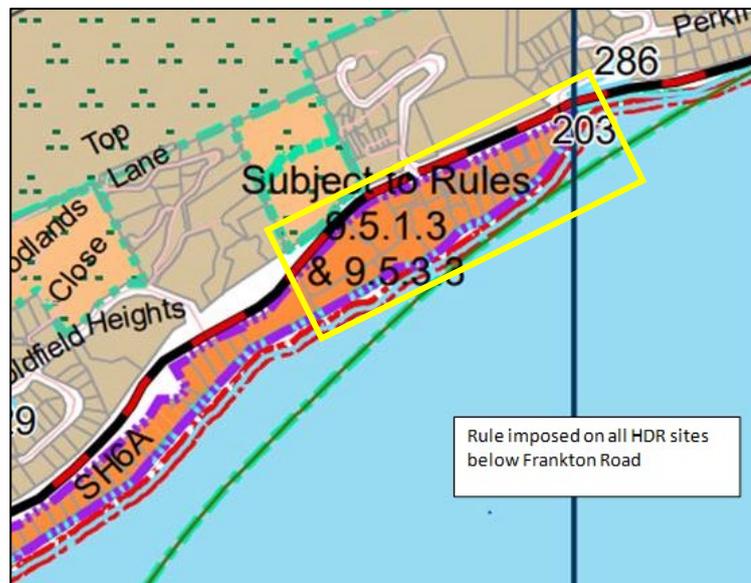


Figure 2 – PDP Zoning and Rule Extent

**7. SCALE AND SIGNIFICANCE EVALUATION**

7.1. The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the implementation of the proposed provisions. In making this assessment, regard has been had to the following, namely whether the proposed objectives and provisions:

- Result in a significant variance from the existing baseline in Proposed District Plan Chapter 9 High Density Residential and Maps 31a, 32 and 37.
- Have effects on matters of national importance.
- Adversely affect those with specific interests.
- Involve effects that have been considered implicitly or explicitly by higher order documents.

- Impose increased costs or restrictions on individuals, communities or businesses.

7.2. The change proposed to the Proposed District Plan Maps is limited in extent to 27 adjoining sites along a discrete portion of Frankton Road.

## **8. EVALUATION OF PROPOSED OBJECTIVES**

8.1. Section 32(1)(a) requires an examination of the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act. This variation does not propose any new objectives or changes to existing objectives.

## **9. EVALUATION OF THE PROPOSED PROVISIONS**

9.1. Section 32(1)(b) of the Act requires an assessment of whether the proposed provisions (policies and methods) are the most appropriate way to achieve the objective or purpose of the proposal. This assessment must:

- identify other reasonably practicable options for achieving the objectives
- assess the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of the benefits and costs anticipated from the implementation of the provisions, and the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- summarise the reasons for deciding on the provisions

### **Reasonably practicable options**

9.2. The following table identifies other reasonably practicable options for achieving the purpose of the variation and applicable PDP policies:

<b>Option</b>	<b>Achieves purpose/objective?</b>
A. Removal of the sites between Lot 3 DP 343088 and Lot 6 DP 369635 and Lot 12 DP 10878 from the mapped extent of the area subject to Rules 9.5.1.3 and 9.5.3.3	<p>This is the variation that seeks to remove two height control rules from 26 sites below Frankton Road, where the underlying topography effectively means any development is unable to comply with either rule.</p> <p>This enables development of the area in line with other development controls in the HDR zone, giving effect to Objectives 3.2.2 and 4.2.2B as stated in section 5.4 of this report.</p>

<p>B. Practice note on advising not to apply the rules to sites between Lot 3 DP 343088 and Lot 6 DP 369635 and Lot 12 DP 10878</p>	<p>This does not address the contradiction of the HDR Zone policy that has resulted from Rules 9.5.1.3 and 9.5.3.3 being applied to a greater extent than intended.</p> <p>This would only ensure the correct assessments of resource consent applications if used consistently by all processing planners, and does not assist other plan users in applying the rules as intended.</p>
<p>C. Do nothing/retain the status quo</p>	<p>A gap in the policy has resulted from Rules 9.5.1.3 and 9.5.3.3 being applied to a greater extent than intended, and doing nothing would not address this. Any redevelopment of the area to heights above the road level would effectively not be permitted, which is not the intention of the rule or the underlying zone.</p>

Having considered these options, Option A is the preferred option because it ensures the policy can enable the type of development that the HDRZ and district plan framework anticipate.

9.3. The proposed amendment to the mapped extent of the area subject to Rules 9.5.1.3 and 9.5.3.3 is shown below:

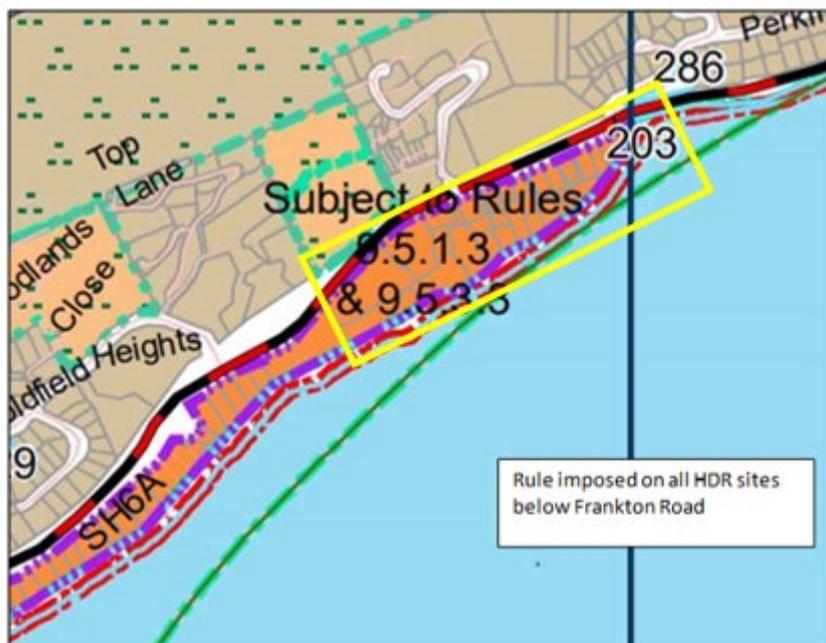


Figure 3 – Outlined area not to be subject to Rules 9.5.1.3 & 9.5.3.3

9.4. Section 32(c) of the RMA requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is considered

that the information about removing the requirement to apply Rules 9.5.1.3 and 9.5.3.3 to sites between Lot 3 DP 343088 and Lot 6 DP 369635 and Lot 12 DP 10878 is certain and sufficient, and there is no need to assess the risk of acting or not acting.

**Efficiency and effectiveness**

9.5. The costs, benefits, efficiency and effectiveness of the preferred option is presented in the following table:

<b>Variation to mapped extent of the area subject to Rules 9.5.1.3 and 9.5.3.3</b>	
<b>Costs</b>	No costs identified.
<b>Benefits</b>	Removes the contradiction between these rules and the development controls of the HDR zone, by reflecting the underlying topography.
<b>Efficiency and Effectiveness</b>	Greater clarity for the processing planner is likely to expedite the resource consent process.  The HDRZ has the potential to be more effective in enabling suitable forms of development intended for the area, when these rules are applied to the correct extent.

**Reasons for deciding on the provisions**

9.6. The proposed provisions are considered the most appropriate because:

- a) They are efficient and effective at achieving the purpose of the variation.
- b) The provisions are in accordance with Objective 3.2.2 (Policy 3.2.2.1) and Objective 4.2.2B (Policy 4.2.2.1 and Policy 4.2.2.2) of the Proposed District Plan.
- c) They are in accordance with the functions of territorial authorities in s31 of the RMA and the sustainable management purpose of Part 2 of the RMA.
- d) The proposed provisions implement the existing objectives and policies – stated in (b) above - that gives effect to the operative Otago PRS.
- e) Regard has been had to the Proposed Otago RPS and account has been taken of the two relevant iwi management plans, which are not considered to have significant bearing on this proposal.

## Appendix 1

### Height Controls

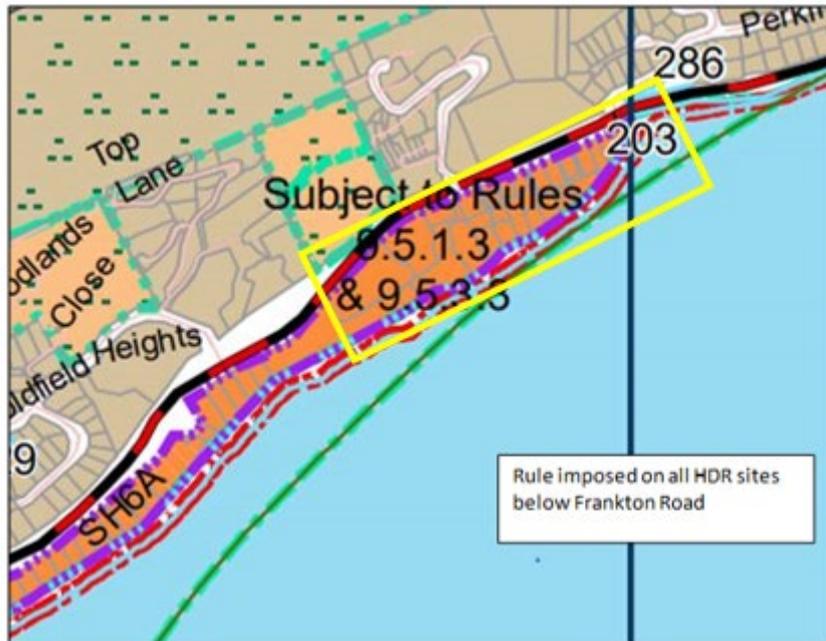
Rules 9.5.1.3 and 9.5.3.3

	Standards for activities located in the High Density Residential Zone	Non-compliance status
9.5.1	<p>Building Height – Flat sites in Queenstown</p> <p>9.5.1.3 Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed the height above sea level of the nearest point of the road carriageway centreline</p>	D
9.5.3	<p>Building Height – Sloping Sites in Queenstown and Wanaka</p> <p>9.5.3.3 Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed the height above sea level of the nearest point of the road carriageway centreline</p>	D

## Appendix 2

### Changes required to Maps 31a, 32, 37

The mapped extent of the area subject to Rules 9.5.1.3 and 9.5.3.3 is to be varied, as described below:



Yellow outlined area not to be subject to Rules 9.5.1.3 & 9.5.3.3

To be achieved by the following changes to Maps 31a, 32 and 37:

- Remove purple hashed outline from the area outlined in the yellow rectangle, so it is not "subject to Rules 9.5.1.3 and 9.5.3.3."
- Reposition the text "subject to Rules 9.5.1.3 and 9.5.3.3" so it is not over the area to be excluded (on the PDF maps).

Figure from PDF map viewer, showing the changes proposed (purple outline removed):

