

**From:** [Blair Devlin](#)  
**To:** ["ANNIE WESTON"; Adonica Giborees](#)  
**Subject:** TRIM: Reply to two issues raised by Ms Annie Weston on 21 October re 9 Boyes Crescent  
**Date:** Wednesday, 5 November 2014 8:12:45 AM  
**Attachments:** [image001.png](#)

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Hi Annie,

Thanks for your email below and apologies for the delay in replying.

In terms of your **issue #1**, I do not agree the retaining wall is 500mm too high. From my viewing of the resource consent plans (RM990663) the wall is in accordance with those plans (however as Adonica has mentioned, the decision refers to "amended plans" that we do not have on file). From my visit to the site, it was apparent the ground level on the adjoining Council owned lot moves up and down, and there is one area where there is a dip in the ground level and the height of the retaining wall is greater than 2.5metres. As this is caused by the ground level on the Council lot rather than the site in question, I am not convinced it is a breach of RM990663. We have advised that we have no legal ability to revisit or recall a consent that has already been issued. That is a matter of fact. The only legal option to do so is through a judicial review in the High Court.

With regard to the entry wall, unlike the above, this clearly was not in accordance with the resource consent and compliance was sought from the consent holder. So the situations are quite different.

In terms of your **issue#2**, as previously advised, the earthworks that were undertaken in order to place the foundation on the site, have been confirmed through a surveyors certificate as being in accordance with the resource consent. The earthworks that were done to raise up the entire site were a permitted activity at the time. It is incorrect to state there is 1000m3 of unconsented fill on the site, when the filling was done at a time when resource consent for earthworks was not required. The photo you attached appears to show a small pile of topsoil that will be spread over the site, presumably to plant grass. This type of landscaping is a normal part of completing development on the site, and it will not materially change the ground level in the area. As noted previously, while the permitted volume of earthworks was apparently exceeded there was no effect on the environment as surveyors certificate confirmed the dwelling was where it had been consented. Council has a discretion as to whether to undertake enforcement action. As previously explained, as the works had been completed, and there were no other environmental effects arising from the earthworks such as dust, sediment run-off, or material being tracked on to the road we determined it was not expedient to pursue enforcement action.

Kind regards

Blair

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**From:** ANNIE WESTON [mailto:xxxxx@xxxxxxxxxxx.xx.xx]  
**Sent:** Tuesday, 21 October 2014 6:45 PM  
**To:** Blair Devlin; Adonica Giborees  
**Cc:** Adam Feeley; Vanessa van Uden  
**Subject:** Re: RM 130501 - Entry Wall

Hi Blair,

Thanks for your reply but unfortunately you've misunderstood my question. I would appreciate it please if you could reply directly to my questions below in red.

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### **ISSUE #1**

- In 1999 you gave a retrospective resource consent (RM 990663) that allowed a 2500mm high retaining wall.
- It exceeded it's resource consent by 500mm.
- In order to have it addressed you have advised that I seek judicial review in the High Court.

- In 2014 you gave a resource consent (RM 130501) that allowed a 2000mm entry wall.
- It exceeded it's resource consent by 600mm.
- You have enforced compliance and asked them to rectify or apply for a resource consent.

Please explain the difference between the two circumstances.

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### **ISSUE #2**

- In February 2014 you allowed an unlimited amount of fill to be brought in without a resource consent on top of an unlimited amount of fill that was contingent on above mentioned retrospective, improperly consented, illegally complying retaining wall.

- The earthworks are NOT FINISHED. Please see attached photo taken today.

Please note the mound of soil on the right that is YET TO BE DISBURSED over the section.

- The total un-consented fill will be approximately 1000 cubic metres in a Low Density Residential Zone.

- The result is that my privacy and views have been greatly affected.

- Your reason for allowing the first fill is that there were no earthworks rules back in 1999.

- Your reason for allowing the second fill is that you don't want to operate an overbearing compliance regime.

Please can you direct me to the relevant provision under the RMA that allows you to exempt developers from applying for a resource consent.

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Many thanks/Annie

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Annie Weston | Freelance Production Manager  
PO Box 2444 | Queenstown 9349 | New Zealand  
Cell +64 21 453 037 | Skype anniequeenstown

On 17/10/14 1:45 pm, "Blair Devlin" <[xxxxx.xxxxxx@xxxx.xxxx](mailto:xxxxx.xxxxxx@xxxx.xxxx)> wrote:

Hi Annie,

Yes I can explain. As we have previously stated, we felt the earthworks did not affect you as the height / placement of the dwelling was unchanged from what was consented. While the permitted volume of earthworks was apparently exceeded there was no effect on the environment as surveyors certificate confirmed the dwelling was where it had been consented. As the works had been completed, and there were no other environmental effects

arising from the earthworks such as dust, sediment run-off, or material being tracked on to the road we determined it was not expedient to pursue enforcement action.

The additional block work on top of the retaining wall was not part of the approved plans for the resource consent. In any situation like there where monitoring identifies something that does not comply with the resource consent, we work with the applicant to achieve compliance, In this case the applicant has confirmed they will reduce the height of the wall. We were not specifically concerned about effects on you with regard to the wall, but thanks for alerting us to it.

Kind regards  
Blair

**Blair Devlin** Resource Consent Manager | Planning & Infrastructure Queenstown Lakes District Council DD: +64 3 450 1738 P: +64 3 441 0499 E: [xxxxx.xxxxxx@xxxx.xxxx.xx](mailto:xxxxx.xxxxxx@xxxx.xxxx.xx)



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**From:** ANNIE WESTON [<mailto:xxxxx@xxxxxxxxxxx.xx.xx>]  
**Sent:** Wednesday, 8 October 2014 1:50 PM  
**To:** Adonica Giborees; Blair Devlin  
**Cc:** Adam Feeley; Vanessa van Uden  
**Subject:** Re: RM 130501 - Entry Wall

Hi guys,

Thanks for the update Adonica.

Please could you explain Blair why Council is able to address this issue whilst you recommend I seek judicial review for the 500mm breach of the consent for the retaining wall? Which incidentally affects me considerably whilst the entry wall doesn't affect me at all.

As you are aware Council gave a code of compliance to the retaining wall in 2010.

Thx/Annie