

**BEFORE INDEPENDENT HEARING COMMISSIONER APPOINTED BY THE  
WESTLAND DISTRICT COUNCIL**

**IN THE MATTER OF** the Resource Management Act 1991

**AND**

**IN THE MATTER OF** resource consent applications  
220120 & 230030  
at 117 Arthurstown Road, Hokitika

**BY** Forest Habitats Limited

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**MEMORANDUM FOR THE COMMISSIONER**

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Solicitor: Nigel McFadden  
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**May it please the Commissioner**

1. In a Memorandum (30 October 2024) to you, Counsel sought advice from you as to whether you had solicited input to your task from third parties.

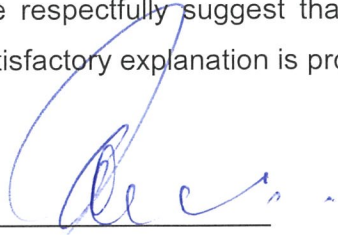
*“(c) Were there any communications, verbal or written, between the Commissioner and Council staff (other than Kate Fleming) including (but without limitation) Edith Bretherton or any other Council officer or consultant?”*

Your response was: (15 November 2024) (interlia)

*“I do not intend to respond to the concerns raised in the memorandum and neither will I be influenced by them”.*

2. You knew, or ought to have known that Edith Bretherton was initially appointed by Westland District Council as Commissioner to hear and determine the Forest Habitats application for consents. That appointment was opposed by the Applicant and your appointment followed.
3. Your failure to adequately respond to our questions as to external input, particularly any from Edith Bretherton has been of concern, and that concern has been conveyed to you.
4. We have now received information that Ms Bretherton has been involved, it appears at your behest, and has in fact, since the hearing been the author of documents issued under your name.
5. This turn of events leaves our client appalled in the extreme at what appears to be an abuse of the hearing process, and despite your solicitor’s advice that the process met with the requirements of S.39 RMA, it cannot have done so, in that the process now identified is neither “*appropriate or fair in the circumstances*” as the RMA requires.
6. We give you an opportunity to explain this serious turn of events, before other remedies are considered by our client.

7. We respectfully suggest that you refrain from issuing your decision until a full and satisfactory explanation is provided and this matter resolved.



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NA McFadden  
Counsel for Forest Habitats Limited

19 February 2025