

BEFORE THE HEARINGS COMMISSIONERS FOR WAIKATO DISTRICT COUNCIL

IN THE MATTER OF

The Resource Management Act 1991 (“the Act”)

AND

IN THE MATTER OF

of Hearing Submissions and Further Submissions on the
Proposed Waikato District Plan (Stage 1)

Hearing 25 – Zoning

For Submitters:

**Vineyard Road Properties Limited/Muirlea Limited (#626)
Mercer Airport Limited (#921)**

Memorandum of Counsel Relating to the Content of the Zoning Framework Report for Submitters:

DATED 9th March 2021

**Julian
Dawson**
BARRISTER

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MAY IT PLEASE THE COMMISSIONERS:

1. I refer to Mr Fuller's Memorandum of 4 March 2021. Regrettably, very limited time has been afforded to consider, and respond to, a fairly complex matter.
2. The reasons for the Framework Report and the assistance it is intended to give submitters, and the Panel in undertaking their assessment are appreciated. However, I agree with Mr Fuller's concerns as to the basis of the Framework Report, in that it does not reflect as accurately as it should, the legal tests required under s32 of the Act.
3. I understand Mr Fuller to say that, Lens 2 best reflects the statutory tests and that Lens 1 as an integration test is an appropriate check.¹ Perhaps a more nuanced approach is that both Lens 1 and 2, together, reflect part of the statutory test required under s32 of the Act.
4. Lens 3 is expressed as an assessment against best planning practice and that it should only be applied if submissions are considered favourable following the first two Lens'. Whilst I accept that aspects of Lens 3 are relevant considerations, Lens 3, perhaps inadvertently, appears to have been elevated to a statutory test; which it is not.
5. Rather, the proposal must be evaluated against the purpose of the Act.
6. The difficulty now is that the s42A Framework Report says that it *sets out a framework for s42A authors and submitters to follow for assessing zoning submissions on the proposed Waikato District Plan.*² That, with respect, elevates the s42A Framework Report to a statutory assessment, which it does not accurately reflect. I suspect the intention of the Framework Report, as to assist in the preparation of evidence, rather than for it to set out the complete basis for assessment, or evidence.
7. Both of my clients have prepared, and filed evidence following the Framework Report. For the purposes of correcting the emphasis of their evidence, I would have thought this opportunity could now be afforded in rebuttal evidence.

¹ Mr Fullers' memo at paragraph 2

² Executive Summary at paragraph 1

8. It would be preferable though, that the full, and correct assessment required under the Act be articulated.

A handwritten signature in blue ink, appearing to read "J.C. Dawson". The signature is stylized and cursive.

J.C Dawson – Counsel for Vineyard Road Properties Limited/Muirlea Limited (#626) & Mercer Airport Limited (#921)