OFFICIAL

KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI	**WAI 3450**
BEFORE THE WAITANGI TRIBUNAL	**WAI 2358**

IN THE MATTER OF	The Treaty of Waitangi Act 1975.
AND IN THE MATTER OF	claims concerning The National Freshwater and Geothermal Resources Inquiry (Wai 2358)
AND IN THE MATTER OF	a claim by the late Sir Graham Stanley Latimer, former Chair of the New Zealand Māori Council and former Chair of the Tai Tokerau District Māori Council and the later Rom Kahiti Murray, former Deputy Chair of the Tai Tokerau District Māori Council.
AND IN THE MATTER OF	a claim by Sir Taihākurei Durie, on behalf of himself and the New Zealand Māori Council of which he is Pou.
AND IN THE MATTER OF	a claim by Babe Kapa, for himself and the Tai Tokerau District Māori Council of which he is Chair.

BRIEF OF EVIDENCE FOR DR KENNETH KENNEDY AND ANTHONY OLSEN

17 October 2025

WOODWARD LAW OFFICE

Counsel Acting:
Donna Hall
Bryn Singers

PO Box 30411
Lower Hutt 5010
+64 (04) 560 3680
info@mokoia.co.nz

AND **IN THE MATTER OF**	a claim by Taipari Munro, for himself and the Whatitiri Māori Reservation Trustees for the Poroti Springs, of which he is the Chair and the Whatitiri Māori Committee of which he is also the chair.
AND **IN THE MATTER OF**	a claim by Kereama Pene and Rangimahuta Easthope for themselves as owners in Lake Rotokawau, and for the Waiohewa Māori Committee of which Ms Easthope is the Deputy Chair and Mr Pene is a member.
AND **IN THE MATTER OF**	a claim by Eugene Henare for himself and as an owner in Lake Horowhenua, situate at Hokio Township, Levin in the rohe of Muaupoko iwi.
AND **IN THE MATTER OF**	a claim by Lori Paul for herself and for Ngāti Rangiteaorere as having a customary interest in the Tikitere Geothermal Field.
AND **IN THE MATTER OF**	a claim by Walter Rika on behalf of himself as an owner in Tahorakuri Maori Land Block situated at Ohaaki, Reporoa.
AND **IN THE MATTER OF**	a claim by Emeritus Professor Whatarangi Winiata on behalf of himself and all hapū of Ngati Raukawa who have an interest in the Horowhenua/Manawatū water systems.

E TE KAIWHAKAWĀ, TĒNĀ KOE

1. We are Dr Kenneth Kennedy and Anthony Olsen, and we give this brief on behalf of the New Zealand Māori Council and the claimants listed above. We have given evidence in this Tribunal before, on behalf of Ngāti Wahiao, Ngāti Rangiteaorere, Waitaha, Kāti Mamoe and others. We are both office holders of NZMC.
2. This Brief of Evidence will outline NZMC's position on "From the Ground Up" (FTGU) and is intended to complement the expert opinions that Mr Equab, Dr Bignall, and Mr Cox have given. It will also establish areas where NZMC believe FTGU may be improved.

OVERVIEW,

3. NZMC agrees with the draft strategy, and all the content that is included is positive. If implemented correctly alongside Māori, NZMC believes this could be a solid step forward for both the Geothermal sector and Māori relations with the Crown.
4. NZMC believes that there are currently missed opportunities within the strategy. Firstly, the draft strategy fails to address the issue of overlapping interests in the geothermal sector regarding Hapu, Iwi and Māori Landowner rights.
5. Secondly, NZMC believes that there is an overallocation of the current resources towards the "supercritical" deep-heat geothermal project, which leaves other geothermal fields that wish to begin development disadvantaged.

ALLOCATION OF FUNDING

6. Currently, the draft strategy outlines one of its goals as doubling the geothermal power of New Zealand over the next 20 years. One of the primary ways it proposes this occurs is through the application of "supercritical" heat generation. This high-risk approach involves deep

drilling to access areas of high heat, thereby allowing for the exploitation of more of the resource in a more stable system.

7. NZMC agrees that supercritical power generation should be an aspirational goal of the geothermal sector in New Zealand, as it has the potential to elevate New Zealand to a global leader in geothermal power production, and if successfully implemented, could provide the template for further supercritical projects to take place.
8. However, NZMC believes that the plan is currently too highly focused on the supercritical angle. Dr Bignall and Mr Cox have already outlined that this is a high-risk strategy, which has yet to be proven effective in a practical setting in New Zealand. Therefore, there is a significant risk associated with this strategy, as it may yield no results.
9. By solely investing in this supercritical project, there is the risk of failing to reach the draft strategy's goals of doubling New Zealand's geothermal power, where there could be no increase in power generation in the worst case; therefore, NZMC believes that there needs to be a derisking of the strategy.
10. There are several fields in the Taupo Volcanic Zone that are ideal to produce low enthalpy heat and would be easy to develop with a proven method quickly. However, the central issue for these fields' development and their owners is the high cost of research, resource consents and exploration wells.
11. If some of the budget for the “supercritical” project were to be made available for these undeveloped fields, then the government could quickly and reliably increase the output of New Zealand geothermal power.
12. The Supercritical project will take several years even to begin development. In that time, several new power stations from these “low-hanging fruit fields” could be developed, actively boosting the output of geothermal power in New Zealand well before any supercritical well has been developed.

13. This ensures that even if the supercritical project were to fail, there would be innovation, investment and generation in geothermal, which would continue to help develop the wider geothermal sector in New Zealand.
14. This would also allow these fields to expand independently of government support in the future. As Māori have consistently shown, they are ready and willing to engage in further geothermal projects so long as they have the resources and expertise to continue the exploitation sustainably, without impacting the system. By providing the opportunity for the initial funding of these fields, you could see several new stations being built per field over the following decades, which will lead to an increase in total power generation.
15. As you have heard from Mr Eaqub earlier, there are several ways in which a system can be funded to allow these fields access to their funds; however, NZMC favours an insurance method at least so that there is more security for Hapu when making these decisions, while not placing the burden of costs squarely on the Crown's shoulders.

OVERLAPPING INTERESTS

16. This issue of overlapping interests over a natural resource is not a new concept for this tribunal. However, due to the interconnected nature of geothermal resources below the ground, there is a greater importance on how these claims are dealt with to ensure that all parties have the right to utilise their own resources effectively without impeding others.
17. Current Crown policy when dealing with claims under the RMA is to use the “first-come, first-served” approach. This approach has consistently demonstrated its insufficiency in addressing Māori rights and is contradictory to tikanga principles such as manaakitanga and whanaungatanga.
18. The draft strategy makes no mention of how this issue will be addressed, and with Geothermal having a more active role in the country's power

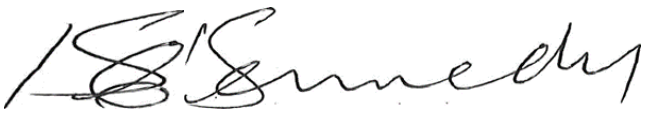
supply, neither Māori nor the Crown can afford for a situation like has happened under the Marine and Coastal areas, where Māori are fighting long battles to see who has which right to what.

19. NZMC believes that the final version of any strategy that the government launches around geothermal must include a system that allows Māori to deal with these overlapping issues independently from Crown involvement or have an allowance for such a system to be integrated into the wider geothermal strategy.
20. An approach must be created by Māori that allows them to set boundaries for overlapping claims both on surface features above the ground as well as the geothermal resource below the ground, as well as place limits on how much of the resource can be used, so as not to impact neighbouring fields or surface features potentially.
21. To formulate this approach, there will need to be multiple hui and consultation with both tikanga and geothermal experts from all over New Zealand, for a consensus on how to move forward can be formed. And while there is a place for the Crown, we reiterate that this must be Māori led for it to have any long-term lasting impact on how the geothermal resource is administered in New Zealand.
22. This process will need to include all of the parties that the Crown identified as having a geothermal interest in Ms MacNeill's evidence, as it is vital to have all parties involved in these discussions, regardless of how large or small their interests might be, so that all potential concerns are addressed when development of a geothermal resource takes place.
23. This is opposed to what the crown has done when setting out this draft plan, where they have identified many parties who have an interest in geothermal, but have only consulted with well-established players in the geothermal space, while leaving other interested groups out of the conversation.
24. This will help address many of the issues that have been identified with the current RMA, as it will allow for Māori to make decisions that align

with Tikanga and respect the inherent right not just of each land owner to develop their own fields for generations, but also ensure that in creating these new fields, there is no impact on fields that lie on neighbouring land so that all Hapu have an equal right to their own field regardless of their current level of development.

25. NZMC is aware that changes are coming to the RMA next year; however, it is doubtful that these changes will allow for a system that will both respect tikanga and Māori interests in geothermal as well as consider the potential loss of geothermal power through neighbouring systems being exploited.

Dated at **Wellington** this Friday, 17 October 2025.



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Dr Kenneth Kennedy

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Mr Anthony Olsen