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**MINUTE 13 OF THE EXPERT PANEL**  
Expert conferencing – Panel members’ attendance  
Green Steel [FTAA-2506-1074]  
(21 January 2026)

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[1] The EPA has received a memorandum of counsel for the Applicant responding to the Panel’s Minute 11 and objecting to the attendance at the expert conference of two Panel members. It refers to the usual situation in Environment Court where members of the Court do not attend expert witness conferencing, and to the Panel Convenor’s Practice and Procedure Guidance dated 22 July 2025 (**Guidance**) which does not expressly contemplate Panel members attending.

[2] While there are similarities between the role and functions of an expert panel appointed under the FTAA and those of the Environment Court, the Panel’s process is more inquisitorial than judicial. The condensed time-frame within which Panel decisions must be made requires both flexibility and pragmatism. In the present case the Panel’s purpose in convening a conference is to avoid iterative and time-consuming RFIs and responses, and so that the Applicant’s experts can address directly with the Panel’s advisors the issues of concern to the Panel.

[3] The Panel’s view when directing the conference was that it would obviate the need for a hearing on those issues. The alternative would have been to convene a hearing at which these matters could be addressed, and that may still be an option if there is no satisfactory resolution from the conference.

[4] The purpose of having the Panel members attend is two-fold. In the case of Mr Baker, it is so that he can clarify the issues of concern with the other participants and ensure that they are all covered. His role will be akin to that of a facilitator. In the case of Ms Hikuroa it is in recognition of the place of Te Ture Whaimana o Te Awa o Waikato. She will attend in the role of an observer but may have questions about the risk of ground or surface water contamination.

[5] The Panel does not see any reason why the participants, as experts in their fields, might feel constrained as the Applicant suggests, but if any issue arises that

they would prefer not to discuss in the presence of the Panel members, that can be accommodated.

[6] The Guidance refers to a non-exclusive range of conference types, including expert conferencing. While clause 15.3 indicates that participation should be limited and the contents confidential to the participants, this is expressly subject to any direction by the Panel.

[7] In Minute 12 the Panel acceded to the Applicant's request that two of its representatives be allowed to attend, albeit in an expert capacity, which is also a departure from the usual approach to expert conferencing.

[8] The Panel directs that the participants at the expert conferencing scheduled for the afternoon of 22 January 2026 may include Panel members Tim Baker and Alethea Hikuroa; and that the content of the conference may be communicated by them to the Panel, except where any participant has requested for good reason that any statement made by him or her be kept confidential.

A handwritten signature in cursive script, appearing to read 'M. Casey'.

**Matthew Casey KC**  
Green Steel Expert Panel Chair