**Minutes of the Eighty Second Meeting of the Ethics Committee on Assisted Reproductive Technology**

**30 April 2020**

Held via zoom on 30 April 2020

**In Attendance**

Iris Reuvecamp Chairperson

Paul Copland Member

Michele Stanton Member

Mike Legge Member

Mary Birdsall Member

Mania Maniapoto-Ngaia Member

Calum Barrett ACART member in attendance

Hayley Robertson ECART Secretariat

Tania Siwatibau ECART Secretariat

1. **Welcome**

The Chair opened the meeting by welcoming all present and noting apologies were received from Judith Charlton.

1. **Conflicts of Interest**

Dr Mary Birdsall declares (on an ongoing basis) that she is a shareholder in Fertility Associates and has interests on a professional and a financial basis.

1. **Confirmation of minutes from previous meeting**

The minutes from the 27 February 2020 meeting were confirmed.

1. **Application E20/031 for Surrogacy involving an Assisted Reproductive Procedure**

Iris Reuvecamp opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents in this application are a same sex male couple using a surrogate and egg donor to start their family. They plan to use the sperm of one of the intending parents for the genetic link and to connect any resulting child to the intending parent’s Indian heritage.
* The birth mother has three children with the birth partner, and they consider their family to be complete. The birth mother has said that her motivation to be a surrogate is that she enjoys being pregnant and wishes to assist the intending parents who they have known for 10 years.
* The egg donor and partner are longstanding friends of the intending parents and have considered the idea of donation since it was discussed with the intending parents in October last year. They are a same sex female couple, and both were willing to donate their eggs to the intending parents. The egg donor and partner do not have any children yet and are unsure if they will.
* The donor couple has not yet met the birth parents. Openness and transparency have been discussed with the donor couple indicating that they are happy to be identified to any resulting child as helping their parents start a family. They will relate to the child as good friends of their fathers.
* Cultural and religious customs have been discussed during the counselling sessions and both parties have stated that counselling has been culturally appropriate.
* The intending parents have sought a preliminary assessment from Oranga Tamariki and spoke positively about the interactions which they had with the social worker allocated to their care. They have clear plans regarding pregnancy and birth.
* The intending parents understand that once an embryo is transferred to the birth mother that she has the legal right to make any decisions about the pregnancy including the decision to terminate a pregnancy. The birth mother has indicated that she would like this decision to be primarily that of the intending parents.
* The birth parents understand that the intending parents will adopt any child born of this arrangement and that they have had a conversation about and agreed plans for testamentary guardianship in the event that they are unable to care for the child.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions. They note that they will continue to be part of each other’s life following the birth and that the birth parents and donor parents wish to be involved in explaining the child’s birth story.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/032 for Creation and Use of Embryos from donated eggs and donated sperm**

Paul Copland opened the discussion for this application. The committee considered this application in relation to the *Guidelines on the Creation and Use, for Reproductive Purposes, of Embryos created from Donated Eggs and Donated Sperm* and the principles of the HART Act 2004.

**Issues discussed included:**

* The committee noted the recipient couples long and difficult reproductive journey and acknowledged the medical reports statement that donor egg and donor sperm would give them the best chance of a baby. A clear medical reason to justify the intended arrangement exists.
* There is a within family aspect to this application as the recipient’s brother has previously donated sperm to them and this donation will continue to be used for this application.
* The egg donor is a close family friend of the recipient couple.
* Cultural and religious customs have been discussed during the counselling sessions and both parties have stated that counselling has been culturally appropriate.
* The committee noted that this was a straightforward and well put together application.

**Decision**

The committee agreed to **approve** this application

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/033 for Creation and Use of Embryos from donated eggs and donated sperm**

Mary Birdsall opened the discussion for this application. The committee considered this application in relation to the *Guidelines on Donation of Gametes between Certain Family Members* and the principles of the HART Act 2004.

**Issues discussed included:**

* The recipient woman in this application is a single woman wishing to start her family with donated eggs and sperm. The committee noted the recipient woman’s long and difficult reproductive journey and acknowledged the medical report’s statement that donor egg and donor sperm would give her the best chance of a baby.
* The recipient woman shows a good understanding of the pregnancy risks involved in her case and the medical report notes that she would require specialist antenatal care.
* There is a within family aspect to this application as the recipient woman’s brother will be the sperm donor. The report notes that he does not yet have children and does not intend to in the future. He has a close relationship with his sister and plans to be the uncle of any resulting children, just as he is with his other sisters’ children.
* The egg donor in this application is a clinic donor. She and the donor partner are a same sex female couple and have gone through a sperm donor program to have their own children, now aged 4.5 and 2 years. They feel gratitude towards their own donor which has meant they have been able to complete their family, and this has contributed to the egg donor’s motivation to donate her own eggs to someone in need. The egg donor indicated a preference to donate to someone who may find it difficult to find a donor, which is why she has been matched with a single woman who also requires a sperm donor.
* The recipient woman and egg donor were pleased to meet and get to know one another in the joint session and presented with similar beliefs around donor conception, specifically a view that children should be made aware of their donor conception and whakapapa. They were both respectful of each other’s privacy and illustrated a strong desire for good boundaries while being open to meeting in the future should a child desire this.
* The counselling requirements for all parties are comprehensive and culturally appropriate, and notes that the egg donor and her partner have considered carefully the implications for their own children. They plan to inform them of the genetic link with any resulting children.

**Decision**

The committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s advice.

1. **Application E20/034 for Surrogacy involving an Assisted Reproductive Procedure**

Mike Legge opened the discussion for this application. The committee considered this application in relation to the *Guidelines on Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents in this application are a same sex male couple using a surrogate and egg donor. One of the intending fathers intends to be the biological parent and the other intending fathers’ sister is the couple’s egg donor.
* The egg donor has two children with her partner. They consider their family to be complete.
* The birth mother has four children and she and her partner also consider their family to be complete with the birth partner having had a vasectomy. Their relationship with the intending parents is that they are friends, and this is the birth mother’s motivation for volunteering for the surrogacy.
* Cultural and religious customs have been discussed during the counselling sessions and both parties have stated that counselling has been culturally appropriate.
* The birth parents understand that the intending parents will adopt any child born of this arrangement and that they have had a conversation about and agreed plans for testamentary guardianship in the event that they are unable to care for the child.
* The intending parents have sought a preliminary assessment from Oranga Tamariki.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/035 for Surrogacy involving an Assisted Reproductive Procedure**

Mike Legge opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents in this application are a same sex male couple using a surrogate and egg donor.
* The birth parents are long term friends of one of the intending parents, having first met 20 years ago. They were involved in key roles at each other’s weddings. The birth parents have two children and have been through IVF previously to create their own family.
* There is a within family aspect to this intended surrogacy arrangement as the egg donor is a cousin of one of the intending parents and they share a close friendship. Due to the egg donor’s family connection with one of the intending parents, it will be the other intending parents’ sperm that is used in treatment.
* The egg donor and partner have one child who is two years old. The initial counselling report states that the egg donor was initially concerned about her loss of control over the destiny of the embryos once donation has occurred and was uncertain as to whether she would be happy for more than one child to be the outcome from her donation. Updated counselling reports show that this seems to have been resolved.
* Cultural and religious customs have been discussed during the counselling sessions and both parties have stated that counselling has been culturally appropriate.
* The birth parents understand that the intending parents will adopt any child born of this arrangement and that they have had a conversation about and agreed plans for testamentary guardianship in the event that they are unable to care for the child.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/036 for Surrogacy involving an Assisted Reproductive Procedure**

Michelle Stanton opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* A clear medical reason to justify the intended arrangement exists and the intending parents have had embryos created. They have two frozen embryos remaining.
* The report shows that both the intending parents and the birth parents have a plan to create more embryos if a pregnancy is not achieved with the two existing embryos.
* There is a within family aspect to this application as the birth mother is the intending mother’s sister and has offered to act as a surrogate for the intending parents. The birth parents in this case have one child who is 8 months old. They note that they are not yet certain that their own family is complete. The committee noted that it is recommended that any subsequent pregnancies are undertaken a minimum of one year later but note that this would be the case by the time this application is processed and approved.
* The intending parents understand that once an embryo is transferred to the birth mother that she has the legal right to make any decisions about the pregnancy including the decision to terminate a pregnancy.
* Cultural and religious customs have been discussed during the counselling sessions and both parties have stated that counselling has been culturally appropriate.
* The birth parents understand that the intending parents will adopt any child born of this arrangement and that they have had a conversation about and agreed plans for testamentary guardianship in the event that they are unable to care for the child.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.

**Decision**

* The Committee agreed to **approve** this application.

**Actions**

* Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/037 for Surrogacy involving an Assisted Reproductive Procedure**

Mania Maniapoto-Ngaia opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents in this application have a diagnosis of unexplained fertility undergoing multiple transfers of good quality embryos. The committee noted their long and difficult journey and acknowledged that surrogacy would give them the best chance of a baby.
* The intending parents have one embryo remaining. If the transfer of this embryo does not result in a pregnancy, they intend on creating more embryos with their own gametes.
* The birth parents have four children and consider that their family is complete.
* The birth mother is also a medical doctor and the intending parents note that they feel assured that she knows how to conduct herself during pregnancy.
* Cultural and religious customs have been discussed during the counselling sessions and both parties have stated that counselling has been culturally appropriate.
* The intending parents and the birth parents were introduced through a mutual friend. The reports note that the intending mother plans to travel to any scans.
* The intending parents have sought a preliminary assessment from Oranga Tamariki. The birth parents understand that the intending parents will adopt any child born of this arrangement and that they have had a conversation about and agreed plans for testamentary guardianship in the event that they are unable to care for the child.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/038 for Embryo donation for reproductive purposes**

Paul Copland opened the discussion for this request. The committee considered this application in relation to the *Guidelines for Embryo Donation for Reproductive Purposes* and the principles of the HART Act 2004.

**Issues discussed included:**

* The donor couple have 12 embryos created from their own IVF treatment that they would like to donate to the recipient couple. The donor couple have children born from the embryos and consider their family to be complete. They would like to give their remaining embryos a chance at life.
* The donor couple selected the recipient couple from a clinic profile and chose the couple because their values resonated with the donor couple’s and the recipients would wish to have more than one child.
* There is a need for treatment as the recipient partner has a medical condition that prevents him from producing viable sperm. The committee noted that there is no specific medical need for embryo donation in this application but recognised the recipient couple’s preference for preferring embryo donation rather than sperm donation. The recipient woman intends to carry the pregnancies.
* The recipient couple are comfortable with the notion of raising a child who is not genetically related to them.
* Both couples have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.
* ECART is required to ensure that appropriate police vetting has been undertaken in cases of embryo donation and noted that the application shows this has been done but would like confirmation that no information of relevance to the application was obtained.

**Decision**

The Committee agreed to **approve** this application subject to written confirmation that the police vetting undertaken was appropriate.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/039 for Surrogacy involving an Assisted Reproductive Procedure (and egg donation)**

Mary Birdsall opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents in this application are a same sex male couple living in Australia. One of the intending parents has an adult child from a previous marriage and the intention is that the other intending parents’ sperm will be used to create a child.
* The egg donor in this application has two young children and is a friend of the birth mother. The Committee noted that the egg donor’s counselling report appears brief and there was no medical report for the egg donor.
* The birth mother in this application is single, has four young children and considers that her family is complete. She is a friend of one of the intending parent’s sister.
* The report notes that the birth mother has mild Asperger’s syndrome and required a blood transfusion at 30 weeks of one of her pregnancies. The Committee also noted that the birth mother is profoundly anaemic and considered that a surrogate pregnancy would be potentially dangerous to her health.
* The committee was also concerned about the support available to the birth mother and her ability to manage a surrogate pregnancy as well as caring for four young children.
* The Committee discussed the health and wellbeing of the birth mother as a suitable choice to be a surrogate as their primary concern in this application.
* Any resulting child will be an Australian resident. ECART was concerned about an expectation that the child would be taken to Australia immediately, and what might happen if either the intending parents could not travel to New Zealand at the time of any resulting child’s birth or there was a delay in making the necessary arrangements to allow the intending parents to take the child to Australia.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions. The Committee was concerned about a couple of matters addressed in the legal advice and agreed to clarify this in the response letter.

**Decision**

The Committee agreed to **decline** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/049 for Surrogacy involving an Assisted Reproductive Procedure**

Iris Reuvecamp opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* A clear medical reason to justify the intended arrangement exists due to the intending mother’s history of cervical cancer and subsequent hysterectomy. The application includes a letter from the intending mother’s specialist referring to her good health.
* The birth parents have two children and consider that their family is complete. There is a within family aspect to this application as the birth mother is the intending mother’s cousin who has offered to act as a surrogate for the intending parents. The birth parents were aware of the intending mother’s cancer journey and contemplated surrogacy even before the intending parents got together.
* The intending mother had six eggs frozen before undergoing cancer treatment but unfortunately none were viable, so an egg donor is also required.
* The egg donor has already undergone egg collection and does not wish to have her own children.
* The Committee noted that the intending parents appear to have close supportive families and networks, and the counselling reports speak of their plans for openness and identification of the individuals involved in the birth story of any resulting children.
* The intending parents understand that once an embryo is transferred to the birth mother that she has the legal right to make any decisions about the pregnancy including the decision to terminate a pregnancy.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.
* The birth parents understand that the intending parents will adopt any child born of this arrangement and that they have had a conversation about and agreed plans for testamentary guardianship in the event that they are unable to care for the child.

**Decision**

The Committee agreed to **approve** this application subject to a preliminary assessment from Oranga Tamariki.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/050 for Surrogacy involving an Assisted Reproductive Procedure**

Mania Maniapoto-Ngaia opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* This is the intending parents second application to ECART. The birth mother in this case has been a surrogate for the intending parents previously with a healthy child born and a clinically uneventful surrogate pregnancy.
* They intending parents have three frozen embryos stored and the birth mother is well counselled about the risks of having a fourth caesarean section.
* Members expressed that this application was well written and contained valuable insight into the birth mother’s health and wellbeing during the surrogacy process and following the birth.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

**Correspondence**

* ECART discussed a query from a treatment provider concerned about the risk acceptability of using donor sperm in an application where the donor has a lower spine neural tube defect.

There is a degree of discomfort by the treatment provider in proceeding with treatment knowing there is a 1 in 25 chance of a child being born who could be affected with spina bifida. The intending parents are aware of this risk and are keen to proceed using this donor.

The Committee considered that a 1:25 is 50 times greater than the general population risk and given ECART’s responsibility to consider the well-being of the child, view that the risk to any resulting children is too high. ECART agreed to write to the provider recommending that the intending parents seek an alternative donor in the best interests of the potential child.

* ECART discussed a query from a treatment provider about a previously approved application which expires soon, but where the individual cannot undergo further treatment due to the current Covid-19 situation.
* ECART discussed a query from a treatment provider about what is required in terms of medical, counselling, legal and any other updated information to support an application for a subsequent pregnancy from a previously approved application.
* Several clinics have asked ECART for some guidance as to what flexibility ECART may offer regarding face to face vs zoom appointments under the current circumstances of Covid-19.

**Meeting close**

Confirmation of 25 June 2020 likely via zoom.

Confirmation of ECART member in attendance at next ACART meeting on 11 June 2020 in Wellington or via zoom, Mary Birdsall.