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

**3 June 2021**

Held in person at the Rydges Wellington Airport Hotel, on 3 June 2021

**In Attendance**

Iris Reuvecamp Chairperson

Paul Copland Member

Michele Stanton Member

Mike Legge Member

Mania Maniapoto-Ngaia Member

Jude Charlton Member

Tepora Emery Member

Mary Birdsall Member

Kathleen Logan ACART member in attendance (10am-2pm)

ECART Secretariat

1. **Welcome**

The Chair opened the meeting by welcoming all present.

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 11 February 2021 meeting were confirmed.

1. **Application E21/064 for Surrogacy involving an assisted reproductive procedure and donated eggs**

Michele Stanton opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* In this intended surrogacy arrangement, a male same sex couple have embryos created with sperm from one of the men and donated eggs from the other man’s sister. Any future child will have a genetic connection to both intending parents. The couple are living offshore and the embryos were also created offshore where the egg donor had counselling prior to donating her eggs. They also require a surrogate to help them start their family and the birth mother who is the sister of one of the men lives in New Zealand where the embryo transfer will take place. The intention was for her to travel later in her pregnancy and give birth in the intending parents’ country of residence.
* One of the intending parents had an injury earlier in life for which he has sought counselling and his counselling report provides comment in relation to his strengths and weaknesses and the discussions had with the intending parents about alternative strategies to manage as a couple and as a family. The counsellor was comfortable that they would seek support as needed.
* The egg donor resides permanently offshore in the same country as the intending parents. She has also received counselling with New Zealand counsellors as part of this application. The medical report for the egg donor states that there is no significant medical history that would put her at risk or would impact on the potential child. The egg donor and intending parents have agreed that surplus embryos will not be donated to another family. The intending parents have declared that they have considered donating any surplus embryos back to the egg donor for her own use should she want to use them in the future.
* Both individual and joint counselling sessions have been held for the intending parents and egg donor offshore prior to the egg donation. These sessions were not documented. They have therefore been repeated to allow the counselling to be formally documented. The intending parents and egg donor appear to have a clear understanding of the psychosocial, legal and ethical issues and all have declared intentions to be open and honest with any resulting child about their conception and birth history.
* The initial intention was for the embryo transfers to take place offshore, but this plan was changed due to COVID-19 pandemic travel restrictions. The intention now is for treatment to take place in New Zealand. Pregnancy and birth plans have been discussed and agreed in New Zealand.
* The birth mother is the sister of one of the men and is a permanent New Zealand resident. The medical report for the birth mother focuses on the important considerations for her in acting as a surrogate. She has two children. She has had uncomplicated pregnancies and births. Her family is complete. She has an elevated BMI, the risks of which have been explained to her. Her medical specialist notes that it is reassuring that she has not experienced complications in her previous pregnancies. Any increased risk will be managed with specialist care during any pregnancy.
* The birth mother originally had counselling offshore where the intending parents live and where it was planned that the treatment would take place. These plans changed due to COVID-19 pandemic travel restrictions and in person counselling has now also taken place here in New Zealand. The birth parents have excellent family support and pregnancy and birth plans include how the family will provide practical support to the couple and be involved in post-partum care.
* The law between the two countries differs in relation to altruistic surrogacy. Prior to receiving legal advice in New Zealand, the birth mother was of the understanding that the intending parents could reimburse her for any lost income as a result of the surrogacy and, she had considered putting her work on hold if the demands of pregnancy were high. Legal advice has since been given to the birth mother under New Zealand law and section 14 of the HART Act has been discussed with her. She understands what the New Zealand requirements are and that only limited expenses can be paid by the intending parents.
* The intending parents intend to stay in New Zealand until the adoption is complete. They have received independent legal advice in relation to New Zealand law. Oranga Tamariki have given approval for an adoption order in principle.
* Counselling for the intending parents has been thorough and covered the implications of the intended arrangement well. The reports describe a strong, committed and capable family group.
* The key challenges were recognised as being geographical distance, the busy lives of the adults and the birth mother being a surrogate while parenting her own children. In counselling sessions the birth parents and the intending parents have discussed how the logistical and geographical challenges of this intended surrogacy arrangement will be managed.

**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 E21/065 for Surrogacy involving an assisted reproductive procedure**

Tepora Emery opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents have one child, but the intending mother has been advised against carrying another pregnancy as she suffered extreme illness during her pregnancy and no additional treatments can be offered for any subsequent pregnancy. Medical opinion is that her health and the health of the potential child would be at risk in a subsequent pregnancy and surrogacy is therefore recommended.
* The intending parents intend to create embryos for transfer to the birth mother and, if treatment is successful, any child born of this intended arrangement would be a full sibling to their existing child. They have taken time to process the grief of IM not carrying a pregnancy of her own but understand the risks provide the need for this surrogacy arrangement.
* The medical report for the birth mother describes her as currently fit and well with no significant past or current medical issues of note. She has no medical history that could complicate a pregnancy for her or the health of the baby. She has completed her family and her pregnancies resulted in uncomplicated deliveries and uncomplicated postnatal course. She had a mild condition in her first pregnancy but not her subsequent one and the potential risk of this occurring in a surrogate pregnancy has been discussed with her. In addition, risks associated with pregnancy including gestational diabetes and the potential for intervention such as a c-section have also been discussed with her. Pregnancy care has been discussed with her and specialist oversight is recommended.
* The birth mother is a longstanding friend of the intending mother and the intending father has known her for many years through his relationship with intending mother. They describe their trust in her. The intending parents describe their values and interests as being aligned. The birth mother appears to have made the offer to act as the intending parents’ surrogate freely. Counselling sessions have canvased the topics of communication, pregnancy and birth plans, termination of pregnancy and the birth mother’s rights, the parties’ understanding of the adoption process and ongoing contact. The intending parents understand no ‘valuable consideration’ is allowed in New Zealand surrogacy arrangements and they instead plan to support the birth mother in practical ways such as providing her with meals, supporting with housework and childcare. Given the nature of their friendship, the parties believe that they can navigate their changing needs together.
* The counselling report for the birth mother presents her as a highly resilient and insightful person who is open about her history and managing previous challenging experiences. She is noted to demonstrate a high level of spiritual and emotional well-being. She also has a supportive network of people in her life who she can readily access if needed.
* The difficult topic of termination of pregnancy has been discussed during counselling sessions as has the topic of parenting a child born with a disability. The intending parents have declared that they could not see a situation where they would reject a child born of this arrangement.
* The intending parents are informed about the adoption process and intend to adopt any child born of this arrangement as soon as possible following the birth. This will allow for a transition period which supports both the baby and the birth family. It will allow the birth mothers children to welcome the baby and but appreciate that the baby will live with the intending parents. Both parties plan to stay together following the birth for a period of time to allow for this transition and make sure all parties get the support they need.
* The joint counselling report is comprehensive and documents full and open discussion about all aspects of the intended arrangement. The report does not raise any concerns. The counsellors observed the parties demonstrated sound communication skills, self-efficacy and autonomy. All aspects of the surrogacy process including outcomes and impacts on each other’s lives were talked about openly and counsellors observed a deep respect for each other’s roles in this intended arrangement.
* Both parties have sought independent legal advice. The legal advisor for the intending parents is satisfied that they have a clear and comprehensive understanding of the legal considerations, implications and processes associated with a surrogacy arrangement. A full and comprehensive legal report for the birth mother covered all legal aspects of the surrogacy and subsequent adoption of the baby that the birth mother needs to be aware of.
* The intending mother appears to have a clear and balanced understanding of the process and possible challenges of surrogacy and is well equipped to handle potential emotional and other repercussions of this process. She has some vulnerability to stress which could emerge if things don’t go to plan, but she does not describe levels of impulsivity or intensity that would give rise to concern. She has notable strength in her willingness to seek help if needed and has a strong and open relationship with the intending parents as well as with clinic staff who she sees as helpful and available to her in this process as it unfolds.

**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 E21/066 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 family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents are a same sex male couple and therefore need an egg donor and a surrogate to help them have a child. The egg donor is a family member (sister) of one of the intending parents who wishes to donate exclusively to this couple to support them to have a family. If the treatment is successful, the potential child will be the genetic child of one of the intending parents and the other intending parents’ sister so he will have a genetic connection to the child. The provisions of the guidelines on surrogacy involving an assisted reproductive procedure and within family gamete donation apply in ECARTs consideration of this application.
* The medical report for the egg donor describes her as a fit and healthy woman who has no significant current or past medical or surgical issues that would put her or the potential child at increased risk of harm. She has a child of her own and her medical report states that her pregnancy and birth were uncomplicated as was her postnatal period (although her counselling report states the egg donor declared she had post-natal depression and sought medical help for this and it appears that her experience was precipitated by some issue with her child following the birth and was situational in nature). Her child has a condition, but medical opinion is that it is not a condition that is genetically based or heritable. She has had the medical risks of egg donation outlined to her and she would still wish to donate if ECART approves this application.
* The egg donor wishes to donate exclusively to the intending parents to help them start a family. Her counsellor has discussed her rights in relation to her gametes including that once the embryos are created – namely, they are the intending parents’ embryos to make decisions about and that on-donation of embryos is now an option. Any on-donation would require her consent. Storage conditions have also been explained to her.
* She has indicated that she is donating to the couple out of her love for her brother and to support him and his partner to have a family. She does not see herself as a mother to the intending parents’ future child and would see herself socially as an aunty and her own child as a social cousin. The birth mother in this application has expressed the same intention in her counselling sessions.
* The birth mother is known to one of the intending parents as she was married to a close family member who she has a child with. The counselling reports state she co-parents with him and is still considered a part of the extended family. The birth mother’s pregnancy and birthing history is described as uneventful and she is described as fit and well in the medical report provided with this application. Her medical specialist has talked with her about the potential risks associated with a surrogate pregnancy and pregnancy and birth care that could mitigate these risks.
* The birth mother understands the issues related to her own health during her pregnancy and sees her ultimate responsibility to be to herself and her own child. She is willing to undergo diagnostic procedures for foetal abnormalities and would involve the intending parents in any decisions relating to a termination. The birth mother is willing to have a number of transfers, but all parties agreed to review their options after the first attempt. She envisages constant contact with the intending parents and did not consider there were any cultural or religious issues that needed to be discussed with the other applicants.
* Her decision to act as a surrogate for the intending parents was made as she recognised their need for a surrogate and acting as a surrogate for a member of her family fits with her values and personal aspirations.
* The intended arrangement appears to protect the health and well-being of all parties including the applicants’ existing children. The relationships shared between the intending parents, egg donor and birth mother and their families are described as close with regular contact and extended family members who are aware of the intended arrangement are described as supportive of it.
* The counselling reports have canvassed the topics of a child being born with a condition or disability, termination of pregnancy, pregnancy and birth plan, ongoing relationships and cultural and religious beliefs. The counselling report for the IPs states that throughout the counselling sessions there has been much discussion about the importance of transparency with children about their conception story and they have declared this is something they value along with their intention to be open with their future child about the various parties who have contributed to their conception and birth and the connection they share.
* The IPs have declared that they would wish to adopt and parent any child born of this intended arrangement and, in the event that they were not able to do so, have appointed the egg donor as testamentary guardian. All parties are accepting of this decision.
* BM is aware of the HART Act requirements and a secondary Birth Certificate will be obtained after adoption. The birth mother considered that counselling was appropriate and was aware of ongoing counselling and support for herself and her family.

**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 E21/067 for Surrogacy involving an assisted reproductive procedure**

Jude Charlton opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* This is a traditional surrogacy arrangement where the intending parents live offshore but share a longstanding, close relationship with the birth mother who has residency status in New Zealand and lives here. A clear medical reason exists that creates the need for a surrogate and egg donation is also needed. The intention is to create embryos with the birth mother’s eggs and the intending partner’s sperm.
* The intending parents intend to live in their country of residence for the duration of this surrogacy arrangement including during any pregnancy. The intending parents have engaged in counselling sessions in their country and can continue to access support through that service. The surrogate mother/egg donor has also completed counselling, including joint counselling offshore (virtually) as well as in New Zealand as this is where she will be supported for treatment and during any pregnancy.
* The birth mother/egg donor and her partner have children of their own and they consider their family to be complete. Her pregnancy and birthing history is uncomplicated and it appears that she is fit and well with no medical history of note. The medical report for the birth mother notes she has a condition for which she takes medication and that the intention is for her to stop taking this medication prior to treatment. In this case this should not put the birth mother or the potential child at risk. She says she will rely on the support of her partner during any surrogacy pregnancy she may carry. During counselling sessions, she described a solid support network in her life and says that her immediate family have responded warmly to her decision to help the intending parents.
* The birth mother has been advised in her counselling sessions that the intending parents have rights over the embryos once created and these rights include the option of on donating embryos created in this arrangement with her consent. She had indicated in her counselling session that she does not know how she feels about that but is aware she can continue to access counselling in future should she need.
* Her counselling sessions in New Zealand have also canvassed the issues of expectations of future roles, treatment and number of embryo transfers, the difficult topic of termination of pregnancy, pregnancy management, birth plan, information sharing, relinquishment of the child (the birth mother presents as confident that she is part of a bigger process to help the intending parents have a child and states she cannot think of a scenario where she would not relinquish the child), and guardianship of the resulting child. She would see any future contact with a child born of this arrangement as a social aunty.
* The intending parents do not intend to adopt their child in the New Zealand system. They have spoken with their lawyer/engaged with appropriate agencies in their country about the process. They ideally would like the birth to happen in their country and the birth mother has agreed to travel there late in the pregnancy. The birth mother is a citizen of the intending parents’ country but has residency status in New Zealand and lives here. If she was not able to travel for the birth the plan is to register the baby’s birth at the consulate and to then travel with the baby when she can to complete the adoption process.
* The possibility that the birth mother could be away from her own family for a length of time should she give birth offshore was discussed by the Committee. If it is not possible for the birth mother to travel, then the length of time the birth parents will care for the baby until borders open and the possibility that relinquishment of the child may then become more of a challenge given the birth mother is a biological mother and gestational mother, was also discussed. There is a degree of risk that the birth mother might not be able to travel given the uncertainty the COVID-19 pandemic brings.
* Both parties have sought independent legal advice and there appears to be no legal barrier to the adoption process playing out offshore smoothly as the jurisdictions are similar in nature and the birth mother is also a citizen of the country where the baby would be adopted. It is intended that the birth parents would care for the child in the unlikely event that the intending parents could not.
* The reports state that as an egg donor she could only withdraw her consent up to the point that sperm is used and embryos formed. As a birth mother she could withdraw her consent after the embryos have been created until the date of transfer.
* The committee queried whether this approach was consistent with past approaches to traditional surrogacy and the right way to view her legal rights.
* The possible scenario that the birth mother might change her mind about being a surrogate but then not have any rights over future use of the embryos was discussed.

**Decision**

ECART does not have jurisdiction to approve or decline an application for a traditional surrogacy arrangement.

ECART can, however, make a non-binding recommendation.

ECART has concerns about the possibility of the birth mother being away from her family for a considerable length of time because she would have to travel to the country of the intending parents’ residence before she is 32 weeks pregnant (a requirement imposed by airlines). There are other factors that might intervene such as if there is another COVID-19 outbreak that would significantly impact on her ability to travel (either to the intending parents’ country of residence, or back to New Zealand). If she does give birth in New Zealand, she may be in the position of having to care for the baby for quite some time, which may make relinquishment more challenging.

**Actions**

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

1. **Application E21/068 for Embryo Donation for Reproductive Purposes**

Paul Copland opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* The donor couple have children who were conceived without the help of IVF treatment and a child who was conceived using embryos created from their own gametes. They consider their family to be complete and wish to donate their remaining embryos to the recipient couple with whom they share mutual friends. The donor couple describe considering donation prior to their own IVF treatment and they have taken time to form a relationship with the recipient couple who they say they are comfortable donating to and who share similar interests and personalities to their own. Their counsellors have observed the donor couple have remained consistent in their views about donating over time.
* The recipient couple are not able to use their own gametes as they are both infertile and embryo donation has been recommended as an option to help them start their own family. The medical report for the recipient couple does not mention any issues that would put the recipient woman at increased risk when carrying or delivering a pregnancy. The risks of pregnancy have been discussed with her including a small increased risk of preeclampsia from carrying a donor embryo.
* The donor couple have declared intentions to tell their children about the donation and to be open with any child born of this relationship. They would like to facilitate contact between their own children and the potential child/ren in consultation with the recipient couple at a time that feels appropriate for both parties. They know that while there will be a full genetic connection between the children that they have no legal or parenting rights and that any contact would be at the discretion of the recipient parents. Their counselling sessions have canvassed their feelings about termination of pregnancy, and their rights around storage and ownership of the embryos, HART Act requirements and changing or withdrawing consent.
* The counselling sessions for the recipient couple have canvassed the topics of parenting a child who is not genetically theirs, their relationship with the donor couple (the recipient couple have described in counselling sessions that they feel a shared perspective with the donor couple including aligned values and beliefs about donation), future contact which they describe as wanting to develop organically but with an importance on transparency for the future child/ren to know their conception story and the link they share with the donor couple and their children. The conditions of the donation have also been discussed as well as pregnancy and birth plans. The couple are also aware that they can continue to access counselling services throughout their treatment, pregnancy and following the birth of a baby.
* Both parties understand that full genetic siblings from embryo donation can exist in two families only.
* In the joint counselling session both couples declared intentions to tell their children about the donation once they are old enough to understand the concept of embryo donation. Each of the couples have talked with their respective counsellors about resources available to aid with such conversations and stated they would like to facilitate contact and relationships between the children if the children want this to happen.

**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 E21/069 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 family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents in this application have a child from a previous surrogacy arrangement and wish to complete their family. The intending mother has had a hysterectomy as part of medical treatment, and they need the help of a surrogate to help them complete their family. The couple have had IVF treatment to create embryos with their own gametes and, if this application is approved, they intend to use them in treatment to transfer to the birth mother.
* The important considerations for the birth mother in carrying a surrogate pregnancy have been set out in her medical report. Her own pregnancies and births are described as uncomplicated. The risks of carrying a surrogacy pregnancy have been outlined and discussed with her and her partner and pregnancy and birth plans and the birth mother’s rights in relation to decision making about the pregnancy have also been discussed during the sessions that have taken place as part of this application. She has acknowledged the ante natal and post-natal risks associated with a surrogate pregnancy and the ways in which they might be managed. The birth mother has declared that she wanted to wait until her own family was complete before acting as a surrogate and she and BP now consider their family to be complete.
* This is the intending parents’ second surrogacy application to ECART, and they are happy to have found another surrogate for this application. Their first surrogate was a family member who carried and delivered their first child.
* The way in which the couples met and how they have subsequently established a relationship was discussed. The couples have described sharing a close relationship in which they maintain regular contact, and an openness about the intended arrangement with extended family and support networks.
* The couples live some distance apart, but plans are in place for communication during pregnancy and birthing plans and post birth plans have been discussed and agreed. The intending parents would wish to have day to day care of the baby following the birth and would spend time with the birth parents and family so that they can spend some time with the baby.
* The intending parents plan to adopt the child and have received approval for an adoption order in principle from Oranga Tamariki. Testamentary guardianship has been agreed. The intending parents and their family are aware of the processes involved given that this is their second surrogacy arrangement. The legal report for the intending parents is unchanged. The birth parents have also sought independent legal advice and they understand the processes and significance of obtaining legal advice. The birth parents have been clear that the child would be placed in adoption if, for any reason, the intending parents were unable to adopt the child.

**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 E21/070 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 family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending parents have embryos created with their own gametes and they have another IVF cycle underway to create more embryos. The intending parents have had a difficult fertility journey with pregnancies not becoming established and exhaustive investigations have not uncovered the reason for this. For this reason, the intending parents wish to have a surrogate help them to start their family.
* The birth mother and the intending mother are sisters. The birth mother appears to have freely made the offer to act as a surrogate. The birth parents in this application have their own children and they consider their family to be complete. The medical report for the birth mother describes her pregnancy and birthing history and the risks that may arise for her in carrying a surrogate pregnancy along with points of her medical history that are of material relevance to her health and well-being should treatment be successful and a pregnancy established. ECART was reassured that the medical team who care for her are mitigating any risks to her and the future baby. Her care plan includes obstetric care and non-invasive testing and overall, the advice is that there are no medical concerns about her acting as a surrogate.
* The intending parents and birth parents and other members of the family have discussed how they will provide additional support to the birth parents should the treatment be successful. If approval from ECART is given, the birth parents intend to talk to their children about the intended arrangement.
* ECART noted that this application was particularly thorough and that it meets all of the general requirements including medical, counselling, consent and legal requirements set out in the ACART guidelines and Oranga Tamariki have also given a preliminary approval for adoption of any child born of this arrangement.

**Decision**

The Committee agreed to **approve** this application and to commend the clinic on a thorough application.

**Actions**

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

1. **Application E21/071 for the Creation of Embryos from donated eggs and donated sperm**

Tepora Emery opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* This application is for the creation of embryos from donated eggs in conjunction with donated sperm for use by the recipient woman. Both the egg and sperm donors are clinic donors with whom the recipient woman has met.
* The recipient woman is single and has reduced ovarian reserve. She has completed a number of cycles with donor sperm, along with other procedures without success and donated gametes would offer her the best chance of a pregnancy. Because of the recipient woman’s advanced maternal age, there is an increased risk with pregnancy, but this has been explained to her and she will receive obstetric care throughout her pregnancy. The application also noted that there is also an increased risk of preterm labour and the recipient woman has had these risks explained to her.
* The egg donor and recipient woman were matched through the clinic and have since met each other. The application notes that they are happy to communicate in future through the clinic. The egg donor and partner in this application do not have children and have not yet completed their family.
* The sperm donor in this application has undergone genetic testing of his sperm and has donated to four families, this will be the fifth and final recipient of his donation but at present no children have been born of his donation. The application states that he is recently in a relationship, is in good health and is motivated by a desire to help people have children after learning about the shortage of donor sperm in New Zealand. The application notes that the recipient woman would be informed in the event that there are half siblings born from donations to others.
* All parties have been counselled on the new ACART guidelines which state that embryos created with the use of donated gametes can be donated in the future with the consent of all parties, including donors and assuming that the maximum number of allocations is not exceeded.
* Counselling reports that support the application show that the recipient woman plans to be open and transparent with a resulting child and both the egg donor and her partner plan to be open about the donation and support any future children to understand the decision to donate and the wider implications for their 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 decision.

1. **Application E21/072 for the Creation 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 for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* This application is for the creation of embryos from donated eggs in conjunction with donated sperm for use by the recipient couple. The medical reports for the recipient couple show that they both have medical conditions impacting their fertility and donated gametes would offer them the best chance of a pregnancy. Because of the recipient woman’s advanced maternal age, there is an increased risk with pregnancy, but this has been explained to her and the application states that she will receive obstetric care throughout her pregnancy.
* There is a within family aspect to this application as the sperm donor is the recipient man’s brother. Previously, his donation has been used in multiple donor insemination cycles using the recipient woman’s own eggs, but these procedures have not been successful which is why the recipient couple are using donor eggs.
* The egg donor in this application has no children with her partner and has known the recipient couple for a long time. Counselling reports that support the application outline the new ACART guidelines which state that embryos created with the use of donated gametes can be donated in the future with the consent of all parties, including donors and assuming that the maximum number of allocations is not exceeded. The counselling reports are clear that the egg donor does not wish to consent to on donation and would like to donate to the recipient couple only as her offer to donate eggs is motivated by her desire to help her friends.
* The sperm donor and partner have a child and the reports show that openness with any resulting child have been discussed between all parties. Especially relevant is the commitment to the importance of honesty and openness with the sperm donors existing child who will be a social cousin to any resulting child.

**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 E21/073 for Surrogacy involving an assisted reproductive procedure**

Michele Stanton opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* In this application there is a clear need for surrogacy. The intending parents are a male couple who have completed an IVF cycle using eggs donated by one of the intending parents’ sister. They intend to use the embryos created in this arrangement for surrogacy. If this application is approved, both of the intending parents will have a genetic connection to a resulting child.
* The birth parents in this application have completed their family. There is a within family aspect to this application as the birth mother is the sister in law of one of the intending parents and has offered to gestate their embryos.
* The birth mother has had the risks of carrying a surrogate pregnancy explained to her and the medical report states that her previous pregnancies were normal with no complications and she is fit and well. There are no known risks to the birth mother beyond the usual risks associated with a surrogate pregnancy and they will be managed with appropriate medical care.
* The counselling reports canvas that the plan is to send the embryos to New Zealand if this application is approved as the birth mother and her partner live in New Zealand and the intending parents live in another country. The reports discuss the COVID-19 pandemic and note that although both of the intending parents intend to be in New Zealand for the birth, one of the intending parents will travel over well in advance of that to provide support so the birth mother can rest.
* The issue of termination has been discussed in counselling between all parties. The application notes that termination is a sensitive subject for this family. However, all parties appear to agree that the health of the birth mother is paramount. The birth mother considers that ultimately it would be the intending parents’ decision as they will have the responsibility of parenting the resulting child. The legal report states that the birth mother already has life insurance in place.
* 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 counselling sessions have also canvassed their attitudes towards openness for existing children and with any resulting children and notes that as they are a close family, the birth parents and the intending parents intend to be open with existing and resulting children about the surrogacy arrangement.
* Oranga Tamariki assessments have resulted in the decision that an adoption order in principle is approved.

**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 E21/074 for donation of sperm between certain family members**

Mania Maniapoto Ngaia opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* The recipient couple in this application have a medical diagnosis of infertility. Their medical report outlines their long and difficult journey and unsuccessful fertility treatments. The medical report also states that sperm donation is considered an appropriate treatment to help the recipient couple start a family.
* The sperm donor has offered to donate sperm to his partner’s sister and her husband, and the application outlines that the donor couple had discussed their wish to help the recipient couple start a family well in advance of making the offer to donate. The medical report for the donor couple notes that they have likely not yet completed their own family.
* The donor is of Māori heritage and the counselling reports highlight the importance that he and his partner place on a resulting child having access to information about their origins, and on iwi and hapū. The committee noted the donor couple’s wish for surplus embryos to be returned to the donor couple for disposal and the committee queried whether this has been explicitly agreed to by the recipient couple.
* The counsellors have observed a close relationship between all parties regardless of the geographical distance between them. It notes that there is an easy communication between the couples and an expressed confidence that they can work through any issues that arise.
* The donor couple have declared intentions to be open with any child born of this arrangement and they would hope that a resulting child would have a close relationship with their existing children as their social cousin.
* The issue of openness is discussed extensively between all parties and the reports show that they are a close family and that their extended family are informed and supportive of the intended donation. All parties anticipate that a child born of this arrangement would be welcomed into this extended family community and receive the benefits of growing up in all aspects of the family’s culture.
* Counselling reports that support the application outline the new ACART guidelines which state that embryos created with the use of donated gametes can be donated in the future with the consent of all parties, including donors and assuming that the maximum number of allocations is not exceeded. The application is clear that the sperm donor does not consent to on donation and would like to donate to the recipient couple only.
* Counselling sessions also involved discussion around the requirements of the HART Act, and all appear to have an understanding about consent and withdrawal of consent to embryo donation, decisions around termination of a pregnancy, and the donor register and birth certificate requirements.

**Decision**

ECART 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 E21/075 for surrogacy involving an assisted reproductive procedure**

Mary Birdsall opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* The intending mother has a medical condition that impacts her ability to carry a pregnancy and there is a clear medical reason for surrogacy. The intending parents have created embryos using their own gametes through IVF which will be used.
* The birth parents in this application have completed their family. The birth mother has had the risks of carrying a surrogate pregnancy explained to her. The committee noted that the medical report for the birth mother was sparse and did not specifically refer to the birth mother’s previous pregnancies. The committee discussed that this is likely an issue with the application form but asked to seek confirmation from the medical specialist that the birth mother has had previous uncomplicated pregnancies and births.
* The intending mother and the birth mother are long term family friends and the counselling reports that support the application state that all parties have an open and trusting relationship.
* The issue of termination has been discussed in counselling and the reports note that all parties agree that the decision to terminate ultimately rests with the birth mother. The application states that the birth mother already has life insurance in place and the intending parents plan to take over the insurance for an appropriate amount of time. Testamentary guardianship has also been discussed and agreed.
* 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 counselling sessions have also canvassed their attitudes towards openness for existing children and with any resulting children and notes that the birth parents intend to be open with their children about the surrogacy arrangement. The application also notes that their extended family are informed and supportive of the intended donation.
* Oranga Tamariki assessments have approved an adoption order in principle.

**Decision**

ECART agreed to **approve** this application subject to confirmation from the birth mother’s medical specialist that previous pregnancies and births have been uncomplicated.

**Actions**

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

1. **Application E21/076 for surrogacy involving an assisted reproductive procedure**

Paul Copland opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* In this application for surrogacy the intending mother has a medical condition that impacts her ability to carry a pregnancy and there is a clear medical reason for surrogacy. The intending parents plan to create embryos using their own gametes through IVF to be used.
* The committee discussed the intending mother’s condition, stating concerns about the severity of her illness and decided that it would like to see more comprehensive information about the intending mother’s condition. Members requested a letter from her endocrinologist about her long-term outlook. The committee also acknowledged the difficulty in living with a long-term health condition and would like to receive an assessment of the intending mother’s psychological wellbeing from an independent specialist.
* The birth mother has completed her family and has had the risks of carrying a surrogate pregnancy explained to her. The medical report that supports the application notes that she has had healthy pregnancies with three previous caesarean section deliveries. The application notes that the parties intend for the birth mother to receive obstetric care throughout the pregnancy.
* There is a within family aspect to this application as the birth mother and the intending mother are cousins and the application highlights their close and sibling like relationship.
* The issue of termination has been discussed in counselling and the reports note that all parties agree that the decision ultimately rests with the birth mother and that her health is paramount.
* All parties feel that counselling has been culturally appropriate. The counselling sessions have also canvassed their attitudes towards openness for existing children and with any resulting children and notes that close family are informed and supportive of the proposed arrangement. Testamentary guardianship has been discussed and agreed and the intending parents also intend to pay for the birth mothers life insurance during the pregnancy.
* Oranga Tamariki assessments have resulted in approval to an adoption order in principle.

**Decision**

The Committee agreed to **defer** this application pending receipt of further information about the health and wellbeing of the intending mother and an assessment of the intending mother’s psychological wellbeing from an independent specialist.

**Actions**

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

1. **Application E20/003 for embryo donation for reproductive purposes**

Iris Reuvecamp opened the discussion for this application. The committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy,* and the principles of the HART Act 2004.

**Issues discussed included:**

* This application was first considered at ECART’s February 2021 meeting and was deferred in order for the recipient couple to attend counselling with a view to specifically considering the reasons for pursuing embryo donation rather than using the recipient woman’s eggs.
* As one of the embryo donors identified as Māori, the committee also asked that the recipient couple explore further how any resulting child/ren’s knowledge about their Māori heritage might be supported and safeguarded.
* The intending parents have since undertaken further counselling and provided a considered and thorough response to ECART’s request for further information with a letter from both the clinic counsellor and themselves. The committee noted that they were impressed that the recipient couple are taking steps to connect with community groups and learn Te Rēo Māori.

**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.