

Minutes of the Ninety-second Meeting of the Ethics Committee on Assisted Reproductive Technology

9 December 2021

Held via zoom on 9 December 2021

In Attendance

Iris Reuvecamp	Chairperson
Paul Copland	Member
Michele Stanton	Member
Jude Charlton	Member
Mike Legge	Member
Dr Simon McDowell	Medical Expert Adviser
Catherine Ryan	ACART member in attendance
ECART Secretariat	
Nicky Murphy	Counsellor, Fertility Plus
Hope Chapman	Counsellor, Fertility Plus
Nan Blanchard	Counsellor, Fertility Associates, Wellington

1. Welcome

The Chair opened the meeting by welcoming all present.

Mania Maniapoto-Ngaia and Tepora Emery sent their apologies for this meeting.

2. Conflicts of Interest

Update to interests register: the Chair has been appointed as Deputy Lawyer Member of the Mental Health Review Tribunal.

3. Confirmation of minutes from previous meetings

The minutes from the 5 August 2021 and 29 October 2021 meetings were confirmed.

4. Application E21/172 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:

- The donor couple have two young children and feel that they have completed their family. They had undertaken In-vitro fertilization (IVF) and needed Intracytoplasmic Sperm Injection (ICSI). Following treatment, they have two

remaining embryos that they would like to donate. The donor couple also had Invitae carrier screening and neither carry the same recessive genes.

- The recipients are a same sex couple who have had unsuccessful donor sperm treatment. One of the recipients has severe stage 4 endometriosis with previous surgery in 2017. IVF with donor sperm was attempted four times but on all four occasions cycles were cancelled due to a poor response.
- A variety of strategies have been utilised to try and get an appropriate response.
- The medical specialist reported that they do not believe that further attempts at IVF are likely to be successful. One attempted Intra-uterine insemination (IUI) was also unsuccessful.
- The other recipient is considered not appropriate for attempted treatment using their own eggs due to their age.
- The medical specialist's recommendation is to pursue the options of either donor eggs with donor sperm or embryo donation.
- Counselling with the donor couple was conducted via telehealth due to COVID-19.
- The donor couple know the recipient couple through introduction by mutual friends several years ago. They share the same social circles.
- Both couples intend to share the donation story with the children. The donor couple intend to share this information with their two children when they are a bit older. They would also like this to be at the same time as when the recipient couple inform any potential child. The recipient couple intend to do this when the potential child is around two years old. The donor couple considered this to be relatively early; however, advised that they will respect the recipient couple's wishes.
- The donor couple have family overseas, but they intend to remain in New Zealand.
- The recipient couple's counselling took place face-to-face. They understand that they will not have a genetic connection with the child. They understand the legal aspects of embryo donation, including the ability of the embryo donors to withdraw consent up to the point of transfer. They are aware that any remaining embryos will be returned to the donor couple and that if the recipient couple have a child, that they will not be able to on-donate.
- The recipient couple plan to move temporarily overseas but intend to return to New Zealand.
- The joint counselling session took place face-to-face with the donor couple in person and the recipient couple via Zoom. The donor couple would like to meet the baby after birth. After that, the donor couple are happy to leave information sharing and what that looks like with the recipient couple.
- Both couples disclosed comprehensive medical histories and fertility journeys. All parties indicated that they are comfortable with the proposed embryo donation.

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.

5. Application E21/173 for within family sperm donation

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:

- The recipients are a same sex couple requiring sperm donation to conceive.
- The sperm donor is the partner of the receiving partner's sister. The gamete donor's family is considered complete. The medical report of the sperm donor was unremarkable. An inheritable condition noted in the family history was deemed low risk.
- There is no known increased medical risk to the recipient who will have treatment and carry the pregnancy.
- Counselling of both parties showed no potential issues between parties and that both parties are intending to be open with the child and wider family regarding the gamete donation in due course.
- The families are close and there is no evidence of coercion.
- The donor is happy donating to both receiving partners and the plan is to start with intrauterine insemination, however, should this be unsuccessful the receiving party have plans to follow up with IVF.

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.

6. Application E21/174 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:

- This was the second surrogacy application for the intending parents. They have a young child from a previous surrogacy where the intending mother's sister was the surrogate.
- The medical reasons for this surrogacy application have previously been approved by ECART.
- The intending parents have found a new surrogate for their second surrogacy arrangement. The birth parents have two young children and consider that their family is complete. The pregnancies for the two children were normal.

- There is nothing concerning in the counselling reports relating to the intending parents.
- All matters were covered in the counselling reports for the birth parents. The birth mother is relatively young but expresses a strong interest in being the surrogate for the intending parents. There does not appear to be any financial cost to her and her family in taking time off to be the surrogate.
- The couples have met with each other a couple of times. They originally met earlier in the year through a website dedicated to people who are searching for surrogates.
- All legal matters are adequately covered off in the reports for both couples.

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.

7. Application E21/175 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.

Dr Simon McDowell is the medical practitioner for the applicants and has declared a conflict of interest. He was not involved in discussion about specifics of this application but had a general conversation at the Committee's request around embryonic reasons for miscarriage.

Issues discussed included:

- The medical report for the intending parents notes that the intending mother has had miscarriages, and an attempt at fertility treatment without success. Medical opinion is that surrogacy is now the best option for the couple to have a child together.
- The intending parents and surrogate couple have developed a relationship after connecting via an online forum and have met several times and friendships have developed. Their family and friends are aware of, and are supportive of, the intended arrangement.
- The surrogate and her partner have children and consider their family complete.
- Counselling sessions have canvassed plans for pregnancy, birth and post-birth. They have declared intentions for pre-implantation screening and further testing and obstetric care for the surrogate once pregnant is preferred by both parties. All are also aware that the surrogate has the legal right to make decisions about her pregnancy.
- Both parties have declared their intention to share information with any resulting child about their conception and to remain in contact in the future.

- Counselling sessions have covered the surrogate mother's motivations for offering to act as a surrogate and describe her partner and extended family and friends as being supportive of her decision. Their own children know about the intended arrangement. Relinquishment of the child has been discussed and the surrogate could see no reason for not doing so. The surrogate couple have sought independent legal advice and have had the adoption process explained to them. They are of the understanding that the intending parents will adopt the child and that they have testamentary guardianship in place in the unlikely event that they are unable to care for the child.
- The intending parents have received approval in principle for an adoption order from Oranga Tamariki.
- Both parties have sought independent legal advice and have been advised that the surrogate parents are the legal parents until the adoption process is completed.
- The Committee discussed whether it should impose a condition that any transfer of an embryo be at 18 months following the surrogate's own child's birth.
- Advice received was that medically, there is no reason to require this unless the surrogate is continuing to breastfeed or has had a caesarean section delivery.
- The intending parents have had first and second trimester miscarriages. The Committee observed that discussion around the topic of poor-quality embryos is not dealt with in counselling reports. In this particular case, there is the chance that the surrogate could carry a pregnancy to second trimester as the intending mother has in the past before having a miscarriage. The Committee discussed whether this should be an issue that is more generally discussed in counselling sessions where appropriate and agreed that it would include for consideration in the revision of its forms inclusion of a heading relating to whether there has been discussion about possible surrogate loss of pregnancy, no pregnancy resulting from transfer and/or a situation where there is a termination of pregnancy.

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.

8. Application E21/176 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:

- There is a clear need for a surrogate in the intended arrangement
- Both intending parents' gametes will be used to create embryos for transfer to the surrogate

- Any child born of this arrangement would be the biological child of the intending parents.
- The surrogate parents have completed their family. The medical report for the surrogate sets out the important considerations for her in carrying a further pregnancy. She has had previous deliveries by caesarean section and the Committee noted that a specialist obstetric consultation that assessed the risks to her and the potential child in carrying a further pregnancy describes careful counselling about the potential risks to her given her birthing history.
- The principles of the HART Act require ECART to consider the interests and well-being of all parties. Some of the considerations ECART takes into account are risks to the surrogate in circumstances where the benefit to her is not the same as it would be if she was carrying her own child. At times when the Committee considers obstetric care for the surrogate would safeguard her and the potential child, it makes obstetric care for the surrogate a condition of approval.
- Given the surrogate's birthing history in this case, the Committee agreed that it was appropriate for any approval to be subject to a condition that the birth mother agrees to be referred, when pregnant, for obstetric assessment and care.
- The surrogate has disclosed a mental health history which has been discussed in counselling sessions and she has good supports in place including throughout any pregnancy and following the birth.
- Both parties have received independent legal advice and had the legal issues associated with surrogacy arrangement explained to them. The intending parents have declared intentions to adopt any child born of this arrangement and they have started the process and have approval from Oranga Tamariki for an adoption order in principle. Testamentary guardianship has also been discussed and agreed in the unlikely event that they are unable to care for the child.

Decision

The Committee agreed to **approve** this application subject to the condition that the birth mother agrees to be referred, when pregnant, for obstetric assessment and care.

Actions

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

9. Application E21/177 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:

- There is a medical reason for surrogacy in this case as the intending mother is unable to carry a pregnancy.

- She does, however, have ovarian function. Her gametes, and that of her partner, the intending father, will be used to create embryos for transfer to the surrogate
- Both parties have sought independent legal advice
- The parties have been advised about the requirements of the HART Act and issues around legal parenthood and the adoption process. The intending parents intend to adopt any child born of this arrangement and have approval for an adoption order in principle from Oranga Tamariki. The intending parents intend to care for the child themselves from birth and the surrogate has consented to this.
- Both parties have been advised that in the event of a dispute they are unable to resolve themselves that they can access counselling or seek the assistance of the Family Court. The importance of wills was discussed and the issues relating to inheritance prior to adoption have been considered.
- The surrogate has a complex birthing history including prematurity and has met with the high-risk pregnancy service in her region. Their advice was that the risk of a pre-term birth is high, and they have recommended specialist obstetric care for the surrogate should a pregnancy be established. They also recommended that the intending parents be informed of the risks with a child born prematurely. The surrogate's history has been discussed in the joint counselling session.
- The Committee noted that the surrogate has had healthy children born at reasonable gestations and her obstetric physician's view is that as long as she is getting appropriate care, it would seem reasonable for her to act as a surrogate. She has been carefully counselled on this and the need for extra care from specialists during any pregnancy.
- The Committee identified that there is a moderate risk to the baby of being born 34 weeks plus preterm, and it would like to see confirmation that the intending parents had been counselled about the risk of a baby being born prematurely given the surrogate's birthing history.
- On the basis of clinical advice that ultimately there have been healthy deliveries and there is no particular increase in risk for the surrogate mother, the Committee agreed to defer the application so that the intending parents can be counselled about the potential implications of a preterm birth.

Decision

The Committee agreed to **defer** this application in order to enable the intending parents to have a separate counselling session with a fertility specialist where they have the opportunity to view and discuss the surrogate's obstetric report (with the surrogate's consent), and to receive a report from the specialist about what was discussed at that session.

Actions

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

10. Application E21/178 for Surrogacy involving an assisted reproductive procedure with donated embryos

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 in this application are a male couple and there is no medical reason why they cannot use their own gametes for creation of embryos for transfer to their surrogate, but they consider that embryo donation will mean the child is not genetically connected to just one side of the family and therefore they prefer embryo donation. Their surrogate is aware that they will have no genetic connection to a child born of this donation.
- The intending parents know the donor couple through working relationships. No concerns of duress or coercion were identified in counselling.
- The intending parents have considered testamentary guardianship and they intentionally wish to appoint a guardian who will facilitate communication between the child and donor couple.
- The surrogate has completed her family and her own pregnancies and births were uncomplicated. She and the intending parents initially met via social media and have developed a relationship that now sees them in daily contact with one another. The surrogate believes that in the context of this relationship the intending parents will provide good emotional and practical support in the intended arrangement.
- Counselling sessions have canvassed pregnancy and birth plans, relinquishment of the baby and post birth communication, and the illegality of commercial surrogacy in New Zealand.
- The donor couple, having completed their own family, have two embryos that they wish to donate to the intending parents. One of the donors has a recessive gene for a condition which has been communicated to the intending parents which carries no risk to the surrogate or any potential children.
- The donor couple have expressed that they would like to see an ongoing relationship between their child and any child/ren born of this donation. The donor couple would like to be known socially as aunty and uncle to the potential child.
- One of the donors likened this donation to a Whāngai arrangement where the child would have contact with their biological parents but where the intending parents will nurture and raise them. The intending parents have declared their intention to support the potential child in knowing their origins and their connections as expressed through the world view of the donor couple.
- Both parties know about the HART register, that the donor couple can withdraw consent to donation up to point of transfer, and that there is a need for adoption of the child once born. The intending parents have approval in principle for an adoption order from Oranga Tamariki.
- The Committee discussed whether the intended arrangement is the 'best or only opportunity' to have a child, which is the test that ECART is required to apply from the ACART guidelines. ECART has requested advice from ACART for evidence-based guidance around the extent to which a genetic link is still a consideration in the application of the 'best or only' test.
- The alternative for the intending parents in this application is to wait for an egg donor which could take at least a couple of years. While it is not the only opportunity for the couple to have a child, the Committee agreed that in the

context of the information before it that it is likely the best opportunity for them to have a child.

- ECART does not have clear information about the age of the sperm when the embryos were created,
- The Committee agreed that it would seek reassurance that the intending couple have been counselled on the medical risks associated with the age of the sperm at the time of creation of the embryos.

Decision

The Committee agreed to **approve** this application subject to the intending parents being counselled about the age of the sperm at the time of creation of the embryo and relevance and implications for any potential child.

Actions

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

11. Application E21/179 for Surrogacy involving an assisted reproductive procedure with 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:

- The intending parents originally sought fertility treatment in 2012. They proceeded to donor egg treatment in 2018 but, because of ongoing pelvic pain and severe migraines, did not proceed to use the two frozen embryos. The intending mother had a hysterectomy this year. They are now pursuing surrogacy.
- 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 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 surrogate pregnancy have been outlined and discussed with her. 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. The birth mother 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 been made aware by the clinic of the procedures to be undertaken and that she will require obstetric and midwifery care and may require more intensive monitoring if the pregnancy is successful.
- The birth mother is single with two children who currently reside with the birth mother's mother and stepfather in a close supportive relationship.

- Individual and joint counselling has been undertaken by both parties and responses were consistent and thorough.
- The egg donor is currently living overseas but has donated previously and has no children of her own. She has already donated the eggs. She has been made aware that on-donation of embryos is permissible with her consent and is open to contact with children resulting from the donation but wishes this to be recipient or child led. She intends to inform any future children of her own about the donation and any children that may result. The egg donor has met the recipient couple prior to them requiring a surrogate but otherwise has no relationship with them. The egg donor will maintain contact details and medical information with the clinic and has been made aware of the adoption and surrogacy laws and processes.
- The egg donor has been incorrectly advised that any storage of embryos may be extended with her consent (noting that, once an embryo has been created, the egg donor can no longer withdraw their consent). This will be addressed in ECART's decision letter.
- The intending parents plan to adopt the child and have received approval for an adoption order in principle from Oranga Tamariki.

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.

12. Application E21/180 for Surrogacy involving an assisted reproductive procedure with donated eggs

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 intending parents are a male couple who need an egg donor and surrogate to help them start their family. Both the surrogate and the egg donor are friends of the couple and are motivated to help their friends have children. The donor couple are open to their child having a social cousin connection with the potential child. The motivation and intent to have an ongoing extended family relationship is explored well in the counselling sessions.
- The counselling reports for the intending parents were thorough and the issues well considered. The Committee noted that the length of the intending parents' relationship and quality of it were not commented on in the reports, but other parts of the application allow the Committee to assume the couple are in a supportive and stable relationship.
- The counselling report for the surrogate notes in part no past psychological issues for her but the follow up indicates mild depression. Later in the application a psychologist report details previous incidences that are more serious in

relation to her health and wellbeing. The Committee queried whether the health care providers in this application all have the same information and was concerned that not all parties may be aware of the surrogate's history and situation. For example, the counselling report is signed some months before the psychologist's report. Also, the surrogate intends to continue on her medication and the committee agreed that this is something that needs to be explained to the intending parents as there is a small risk to the potential child.

- While all the information is in the reports the Committee would like the reassurance that all parties are aware of all the information.
- The counselling report does not comment on the specialist report or show discussion has been had with the surrogate about the report in the context of counselling sessions. This disconnect concerns the Committee as the counsellor may not have had access to full information about the surrogate.
- Support for the surrogate given her current circumstances appears sound as she has described supportive social networks.
- The Committee agreed it would like to see information on how the surrogate would be cared for during pregnancy. For example, that she would be referred to a maternal well-being clinic as part of her care.
- The Committee agreed it would like to know whether the surrogate is with a current mental health service provider.
- The Committee considered that there is not enough information about the surrogate's history and current situation for the Committee to feel assured that the surrogacy would not be detrimental to her wellbeing. ECART has significant concerns about how her health and wellbeing might be impacted if she were to act as a surrogate because of the information in the specialist report taken alongside the lack of information in the application before it in relation to her mental health. ECART therefore agreed to defer the application to request further counselling, sharing of information, a letter from the surrogate's general practitioner (GP), more information about the surrogate's mental health history from previous and/or current mental health providers, and a plan for herself and her children in terms of the proposed surrogacy.

Decision

The Committee agreed to **defer** this application. The Committee has strong concerns about the surrogate's health and wellbeing should she act as a surrogate. The Committee requires information from the counsellor about what precipitated her referral of the surrogate to a psychologist, a letter from the surrogate's GP relating to her mental health, a summary of her current and past mental health history from her most recent mental health care provider, a report from a psychiatrist, and given that she has the sole charge of four children and is working, a well-being plan for herself and her children if the surrogacy goes ahead.

Actions

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

13. Application E21/181 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 are a same sex male couple and therefore require a surrogate to have a child. They currently have one child from a previous surrogacy arrangement.
- The intending parents have a number of embryos from prior egg donation. The egg donation was by the proposed surrogate.
- The intending parents are familiar with the surrogacy process and have been given legal advice. The intending parents plan to adopt the child and have applied for approval for an adoption order in principle from Oranga Tamariki. Their current child knows their conception story and the intending parents intend to be open with any future children as well.
- The birth mother and her partner have children and consider their family to be complete. The risks of carrying a surrogacy pregnancy have been outlined and discussed with the surrogate and her partner and pregnancy and birth plans and the surrogate'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. Her pregnancy and birth history are considered uncomplicated.
- The birth mother and intending parents have remained friends since the egg donation and the birth mother intends on saying farewell to the baby after birth.
- A letter from Oranga Tamariki is required approving the adoption.

Decision

The Committee agreed to **approve** this application subject to receipt of a letter from Oranga Tamariki approving an adoption order in principle.

Actions

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

14. Application E21/182 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:

- The intending parents have already had a previously approved ECART application.

- The intending mother underwent a total hysterectomy and treatment for severe endometriosis and therefore requires an egg donor and surrogate to have a family.
- The intending parents previously had an application for surrogacy approved by ECART with embryos created with donor eggs and intending parent sperm. A child was born from this arrangement. The previous surrogate does not wish to proceed with a further pregnancy. This is an application to use a new surrogate to add to their family.
- 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 Committee noted that it would be necessary for the birth mother to be referred for obstetric assessment and care given the caesarean sections in the birth mother's medical history.
- The two parties have a good relationship. There is the intent to be open with the children as with their previous surrogacy.
- The birth mother has her own children and considers her family to be complete. The intending parents are willing and confident they have the capacity to support the birth mother through the process.
- 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 intending parents' legal advisor suggested making the guardianship of the potential child clear in their will.

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.

15. Consideration of extended storage applications

16. Correspondence

- ECART considered an application for non-binding ethical advice on an embryo donation. The Committee considered it does not have jurisdiction in relation to import/export of gametes and embryos. However, it does have jurisdiction, and applications must be made to ECART, where it is intended that gametes and embryos are used and that use falls outside the definition of an established procedure. ECART requires that the applicant completes the relevant forms but

is prepared to accept the documentation from Australia in support of that application. It requires a report following a joint counselling session between the embryo donors and the recipient couple and notes that this is usual practice in circumstances where three years have passed since an application has been approved.

- Query from a fertility clinic about posthumous donation of eggs where the family of a woman who wanted to donate her eggs but died before she could have counselling, are seeking guidance from ECART about whether they can continue with her wishes to donate. Donation and use of her eggs would not be an established procedure and would need to come before ECART for consideration. However, current ACART guidelines only apply to sperm and not eggs. Those guidelines are being revised and in future would require an application to ECART for use.
- Query from a fertility clinic about whether “exceptional circumstances” could apply for posthumous use of sperm stored longer than 10 years offshore. ECART cannot retrospectively approve this application as the HART Act specifically requires ECART to take into account the storage period overseas in the calculation of the 10-year expiry.
- Request from a member of the public for ECART opinion in relation to a clinic decision. ECART cannot comment outside of an application to ECART on whether a woman is a suitable surrogate or not and agreed to respond to say that she may wish to consider obtaining a second opinion.
- Query from a member of the public about individual rights in relation to sperm donation. ECART agreed that it be suggested to the requester that they redirect their query to Oranga Tamariki.

Meeting close

Confirmation of next meeting on Friday, 25 February 2022.

Confirmation of ECART member in attendance at next ACART meeting on 10 December 2021. Paul Copland to attend.