

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

## 11 August 2022

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Held via zoom on 11 August 2022

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### In Attendance

Iris Reuvecamp	Chairperson
Jeanne Snelling	Member
Angela Ballantyne	Member
Mania Maniapoto-Ngaia	Member
Jude Charlton	Member
Mike Legge	Member
Emily Liu	Member
Analosa Veukiso-Ulugia	Member
Richard Ngatai	Member
Simon McDowell	Medical Expert Adviser
Catherine Ryan	ACART member in attendance

ECART Secretariat

### Apologies

#### 1. Welcome

The Chair opened the meeting and welcomed all in attendance.

#### 2. Conflicts of Interest

#### 3. Confirmation of minutes from previous meetings

The minutes from the 9 June 2022 meeting were confirmed.

#### 4. Application E22/128 for surrogacy involving an assisted reproductive procedure

Richard Ngatai 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 had significant fertility issues that have resulted in a former ECART application for a procedure that was unsuccessful.

- The way in which the parties met and how they have subsequently established a relationship was discussed. All parties 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 egg donor has known the intending parents for 10 years. The birth mother and intending mother know each other through work and share a close relationship.
- The egg donor has been made aware of her rights including varying the terms of donation, medical process and conditions to the donation of her eggs.
- The egg donor has no medical history of note and has been counselled as to the medical risks associated with ARP.
- The egg donor and birth parents consider their families complete.
- 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 medical and birthing history of the birth mother contained nothing of note and the medical report showed that there was appropriate risk management and counselling undertaken.
- The risks of carrying a surrogacy pregnancy have been outlined and discussed along with pregnancy and birth plans. 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 ante natal and post-natal risks associated with a surrogate pregnancy and the ways in which they might be managed have been discussed.
- Individual and joint counselling has been undertaken by all parties.
- All parties have had independent legal advice and have been counselled on the HART act, rights of the surrogate, adoption, disputes and expenses.
- The intending parents plan to adopt the child and have received approval for an adoption order in principle from Oranga Tamariki.

## **Decision**

The Committee decided 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 E22/129 for creation and use, for reproductive purposes, of an embryo created from donated eggs in conjunction with donated sperm**

Analosa Veukiso-Ulugia 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 woman is a single woman with a complicated reproductive medical history with several former undertakings to treat infertility being

unsuccessful. As her eggs are not viable, she requires an egg donor as well as a sperm donor to conceive.

- The egg donor and her partner have 6 children and consider their family complete.
- Since having her children, the egg donor has had a hysterectomy for adenomyosis. However, this does not predispose the donor to any further risks of the Assisted Reproductive Procedure (ARP). All typical risks associated with IVF were explained to the donor and plans made to mitigate and minimise any issues that may arise. The egg donor's medical history otherwise posed no issues for the donation process.
- The egg donor has been made aware of her rights including varying the terms of donation, the medical process involved and the ability to place conditions on the donation of her eggs.
- The egg donor has informed 2 of her children of the planned donation and intends to be open with the other children (who are young at this time) as appropriate.
- The counselling undertaken with the egg donor and the recipient woman showed the two were close friends with a strong relationship. They are aware of the rights of donors and have made plans for future contact between the egg donor and any children that may be born as a result of any donations.
- The sperm donor and their partner have 2 children of their own and consider their family to be complete. The sperm donor is a clinic donor and thus far 3 children have been conceived from his donated gametes.
- There are no risks posed to the sperm donor from the ARP and he has consented to the use of his gametes. He has no inheritable or concerning medical history and has placed no conditions of the donation of the sperm and is aware that there will be no on-donation of the resulting embryos as per the egg donors' request.
- The sperm donor was counselled and has plans in place to support children born from his donations should they approach him.
- The recipient woman plans to embrace and aid any potential children in discovering their cultural identity and will support any children in finding their Whakapapa.
- There will be PGA testing on the embryos to test for chromosomal abnormalities.
- All parties are aware that there may be unused embryos but that these remaining embryos will not be on-donated as per the request of the egg donor.
- Disposal of any unused embryos will be decided by the recipient woman.

### **Decision**

The Committee decided to **approve** this application with the recommendation that the recipient woman is sufficiently counselled (if this has not already occurred) as to the age of the egg donor and the potential quality of the eggs to be donated.

### **Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee's decision. The Committee noted that the medical report was light and that future discussions may be eased with the inclusion of more detail. An email to the medical practitioner specifying this to be drafted by the Secretariat.

## **6. Application E22/130 for within family sperm donation**

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 medical report for the recipient couple noted that the recipient partner had no ability to produce sperm because of a lack of Y chromosome.
- The gamete donor understands the details of the sperm donation and has placed no conditions or restrictions on the use of their gametes. The donor has 2 children and consider their family complete.
- The gamete donor is a carrier of an inheritable skin related condition that will be screened for in utero in any embryos created as a result of this procedure.
- The intending mother has no medical history of note, and no risks are associated with this procedure. They have been counselled as to the carrier status of the gamete donor for their inheritable condition.
- The intending mother has a history of depression and anxiety though this is well managed.
- The medical risks associated with all procedures have been discussed with the relevant parties.
- The parties have a close relationship, and no pressure or coercion regarding this arrangement was identified.
- The recipient parents and the donor couple have been counselled satisfactorily on the HART Act and according to ECART requirements.
- The legal aspects of the donation have been discussed to a satisfactory standard.
- Both parties intend to be open with any resulting child of their conception story and genetic heritage, and plan to be open with the wider family around this should a pregnancy result from the donation.

### **Decision**

The Committee decided 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 E22/131 for surrogacy involving an assisted reproductive procedure**

Emily Liu 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 congenital absence of a uterus and therefore requires a gestational surrogate. However, she will be able to use her own eggs.
- The birth mother is the sister of the intending mother and has two children of her own. Her birthing history is uncomplicated. She has a history of depression which is well managed.
- A birth plan has been made to reduce the risk of transmission of a transmissible disease from the birth mother to any potential child. The potential need for increased monitoring and pre-birth care has been discussed and the increased obstetric risks were discussed appropriately.
- The birth mother intends to undergo several embryo transfers should the first be unsuccessful.
- The intending parents intend to create embryos with their own gametes prior to transfer and understand that transfer will happen with one embryo at a time.
- Support will be provided to the birth mother by the intending parents and the birth mother's mother as they live close to one another. The availability of support particularly emphasised for the later stages of the pregnancy.
- The birth mother's family have shown significant willingness to support this process as she is a single mother and may require additional help with childcare etc. during this time.
- There is a birth plan with a midwife already planned, with specialist oversight intended.
- Termination of pregnancy was discussed, and any such decision is understood to rest with the birth mother, but the birth mother is willing to take the intending parent's lead on this.
- The counselling report showed no concerns and that there is a good level of dispute resolution ability between the sisters and that there is confidence in the ability to resolve any issues as they arise.
- They are aware that the wider family can access counselling should it be necessary and intend to be open with the child and the wider family about the conception and birthing process.
- There is a clear plan in place should the birth mother experience an increase in depression during the pregnancy as she is aware of her early warning signs and feels capable of voicing the need for proactive help. The counselling as well as the private mental health specialist report showed that she is well supported, her depression is well-managed and is not at increased risk from this.
- Testamentary guardianship was decided in the event of the death of the intending parents.

### **Decision**

The Committee decided to **approve** this application pending receipt of an approval of adoption in principle by Oranga Tamariki.

### **Actions**

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

## **8. Application E22/132 for surrogacy involving an assisted reproductive procedure**

Jeanne Snelling 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 and intending partner are unable to conceive as the intending mother has no uterus and therefore cannot carry a gestational pregnancy.
- The intending mother has one kidney which is unlikely to pose a risk during egg collection and a hole in her heart for which she will take antibiotics during the process of egg collection to reduce any potential risks.
- The birth mother has children (one with the birth partner), and her partner has a child from a previous relationship. They consider their family is complete.
- The birth mother experienced post-natal depression with her first pregnancy due to a difficult relationship with her partner at that time, and nausea and vomiting with the second and third pregnancies for which a plan has been made should this occur again.
- The birth mother has had three vaginal births, and a history of endometriosis and there have been cases of umbilical hernias which were managed surgically during the pregnancies.
- A cardiologist report noted the birth mother has a heart condition but indicated there was no increased risks for pregnancy; the fertility specialist advised that the birth mother be under an obstetrician for specialist care and sees a cardiologist during the pregnancy.
- The intending parents met the birth mother a year ago. The counselling report showed there was similar interests and desire to form a friendship outside of the surrogacy of both parties. The intending parents live in a different part of the country to the birth mother but intend to travel for as many key appointments as possible.
- Termination of pregnancy has been discussed, and all parties are aware that the decision to terminate lies with the surrogate who has voiced that she would not terminate a child with Down syndrome.
- The intending parents plan to adopt the child and have received approval for an adoption order in principle from Oranga Tamariki.
- Testamentary guardianship was decided in the event of the death of the intending parents.
- Counselling for all parties was considered satisfactory and all aspects of the HART Act, access to further counselling and dispute resolution were understood.
- The intending parents intend to be with the birth mother during the birth and will stay locally to the birth mother and her family for a short period following the birth to give the birth mother and her children any time they need or want with the baby.
- The nurse practitioner's report on the mental health of the birth mother was sufficient in setting out the management and current state of mind.

- All parties confirmed that they intend to share information with any child resulting from the procedure and with their families.
- The legal aspects of the surrogacy were explained to all parties and guardianship, life insurance and plans for adoption discussed, alongside the rights of the surrogate.

### **Decision**

The Committee decided to **approve** this application pending receipt of an approval of adoption in principle by Oranga Tamariki.

### **Actions**

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

## **9. Application E22/133 for surrogacy involving an assisted reproductive procedure**

Emily Liu 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:**

- Medical reports from the obstetric physician and rheumatologist support surrogacy as the best option due to the intending mother's health concerns.
- The intending parents will have embryos created from their own gametes. They are aware of the risks of IVF treatment needed to create the embryos.
- The intending mother is on a range of medications but copes well currently and is working full-time. The intending mother's condition poses no further risks to the use of IVF. The intending mother may require additional pain relief.
- The birth mother is related to the intending father, and she approached the intending parents at a family event to offer to be a surrogate altruistically. The birth mother has also been an egg donor in the past for close friends.
- The birth parents both feel their family is complete and don't intend on having any more children of their own.
- The risks of carrying a pregnancy were discussed with the birth mother including the increased risks related to surrogacy and how they will be mitigated.
- The birth mother has previously struggled with mental health issues. These are now under control and pose no risk to the surrogacy. The birth mother showed no sign of post-natal depression from her last pregnancy.
- The birth mother has discussed using PGT testing to hopefully reduce the chance of her having an early pregnancy loss.
- The birth parents have moved closer to the intending parents and now are able to see each other more often.
- The intending parents have offered to provide support to the birth mother during the pregnancy.
- The birth parents live in a small community and have discussed with the intending parents their wish that everyone understands the nature of the

pregnancy. The intending parents are comfortable with this but have no intention to make this public on social media.

- Termination has been discussed with the intending parents and the birth mother. The intending parents know that the birth mother must make the final decision, however, the birth mother has stated they will not overrule any decision made by the intending parents. The intending parents have stated they are not in a position to care for a child with a disability so will wish to terminate if they are advised of this by medical professionals.
- In the case of a potential dispute, they will ask certain family members to mediate. They are open to using counselling services. They are aware that if this is unsuccessful, in the event of a serious dispute, the dispute can be determined by the Family Court.
- Both parties have received independent legal advice.

### **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.

### **11. Application E22/135 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:**

- Following treatment for a medical condition the intending mother is not able to use her gametes in fertility treatment or carry a pregnancy herself and surrogacy offers the intending parents the best chance of having a family. A specialist report included with the application confirms the status of the intending mother's condition.
- The intending mother's sister has donated her eggs and they have been used with the intending father's gametes to create embryos that will be transferred to the surrogate if this application is approved.
- The intending parents and the birth parents met online and have since developed a relationship. They keep in regular contact and have met in person. They describe sharing similar perspectives and have declared that they intend to continue their relationship beyond the intended surrogacy arrangement.
- The surrogate's birth history was discussed. Her most recent pregnancy was complicated by Rhesus disease with her developing antibodies, and she and her baby were monitored from 25 weeks gestation onwards without the antibodies rising to a significant level. Her deliveries have been by caesarean section. The risks of carrying a surrogate pregnancy have been relayed to her as part of her medical assessment, including the risk of developing an immune response to the embryos, a Rhesus positive embryo would require frequent monitoring while she is pregnant and, the risk that the baby could develop a



haemolytic disease. The case has been discussed with a Maternal Foetal Medicine specialist and a plan is in place to mitigate these risks. The medical report notes that the intending parents need to be made aware of the above risks, but it is not clear from the individual and joint counselling reports whether they have been informed and counselled about the risks. Further, it was not clear whether the birth mother understands how high the chances of these risks occurring is, especially the more serious risks. ECART agreed that it would be helpful for the committee to have a report from a maternal foetal medicine specialist that clearly documents the risks and that they have been discussed with both parties.

- The parties have described shared views and agreement around when information will be shared with existing and potential children. They have declared intentions to be open about the biological relationships and have agreed on what the social relationships will look like as part of ongoing contact between them and their children.
- Counselling sessions have canvassed motivations for the donation and offer to be a surrogate, the number of treatment attempts the parties are comfortable having, pregnancy and birth plans across a range of scenarios and strategies for the birth mother for relinquishment of the baby at birth.
- The intending parents intend to adopt any child born of this arrangement and are in the process of working with Oranga Tamariki on the pathway to adoption of the child once born. Testamentary guardians have been appointed for the unlikely event that the intending parents cannot care for their child.
- The intending parents and birth parents have received independent legal advice and are aware of the requirements of the HART Act and of their rights in relation to the intended surrogacy arrangement.
- All parties are of the view that counselling has been culturally appropriate and have chosen at this stage to not involve extended family in the counselling process.

## **Decision**

The Committee agreed to **defer** this application to request a letter from a maternal fetal medicine specialist that sets out both the risks and management options in this situation where there is a Rhesus positive egg donor and Rhesus negative birth mother. The Committee also requests confirmation that the intending parents and birth parents have received medical counselling about the risks and management options.

ECART notes from the counselling reports that there appears to be an expectation that the birth mother will be under the care of her own midwife. ECART's understanding is that in such circumstances the birth mother would need to be under the care of an obstetric specialist and requests comment from the parties on how the plan to use a midwife aligns with their management plan.

ECART also requests that the egg donor be provided with a copy of the maternal fetal medicine specialist report and is given an opportunity to access counselling from a medical clinician to discuss the report if she has any concerns.

## **Actions**

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

## **12. Application E22/136 for surrogacy involving an assisted reproductive procedure**

Angela Ballantyne 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 first intending parent (IP1) is a transgender woman who stored sperm before transitioning. The second intending parent (IP2) is non-binary and has a complicated history of mental health issues. These issues are now considered to be resolved and second intending parent is not taking any medication.
- From the counselling report, second intending parent seems self-aware about their current mental health and relationship with their body and does not feel comfortable supplying eggs, nor carrying the pregnancy. They believe both of these processes would threaten their mental stability. The Committee deemed this sufficient to justify surrogacy as the “best or only” procedure.
- An egg donor has provided the eggs and embryos have been created using first intending parent’s gametes.
- The birth mother is currently single and has no children and has stated they have no intention of having their own children. However, BM has long term plans to become a foster parent. BM is confident she will not wish to keep a child born of this intended surrogacy arrangement; her prior choices and life plan indicate a stable position on the desire not to have her own biological children.
- The egg donor met the intending parents in 2021. The embryos were created for intended use offshore, however, plans changed, and they now intend to have the pregnancy in New Zealand.
- The intending parents and the birth mother met via social media a year ago and bonded over similar views and values. The intending parents plan to be open with the child about how they were conceived and expect the child to have contact with their birth mother.
- The intending parents and the birth mother appear to have a strong relationship. The birth mother also has a strong support network which includes her close friends and her mother. The Committee was of the view that appropriate support systems were in place to support the birth mother through a pregnancy.
- They would all prefer a midwife as their primary caregiver. Both intending parents and the birth mother intend to have the birth in hospital and have considered the possibility of a c-section. The birth mother would like her mother to be present for the birth as well as possibly first intending parent if available. The intending parents and the birth mother are open to specialist care.
- Both parties have sought independent legal advice. The intending parents intend to adopt the child and have received approval for an adoption order in principle from Oranga Tamariki.
- Testamentary guardianship in the unlikely event that the intending parents could not care for the child has been arranged.

- Termination and pre-natal testing have been discussed. Throughout these discussions it was clear that the birth mother's well-being was the top priority for all parties.
- No cultural issues were identified.

### **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.

### **13. Application E22/137 for embryo donation for reproductive purposes**

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 recipient woman is single, has no children of her own, and has gone through early menopause.
- The donor couple have two children and consider their family to be complete. They have decided to donate their embryos to help another family. They have embryos cryopreserved and intend for any non-viable embryos to be used for training purposes.
- The donor man is a carrier of two genetic conditions. The Donor woman has been screened and medical reports state the chance of these embryos being affected by these conditions is extremely low (almost zero).
- The donor couple met the recipient woman via an online platform for embryo donation and connected over similarities in their lives.
- The donor couple are aware that their information may be accessed by the resulting child, however, they anticipate remaining in future contact despite living in different cities and plan on visiting each other at least once a year. Transparency with any resulting child is important to all parties and they all wish for the donor couples' children to have a cousin-like relationship with the resulting child.
- The donor couple understand they have no legal rights over the pregnancy and that any decision to terminate will be made by the recipient woman.
- No cultural risks were identified.
- The recipient woman is aware of the possible risks of pregnancy and has consulted with an obstetric team to minimise these risks.
- The recipient woman has made peace with not using her own gametes for a child. The recipient woman has a strong support network from friends and family and has access to grief counselling.
- If the first attempt is unsuccessful, the recipient woman wishes to use the remaining embryo and will consult the donor couple about the use of this embryo.
- All parties understand their rights and responsibilities around termination.

- Should any conflict arise between parties, they are happy to use a mediator or a counsellor if necessary.

## **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.

### **14. Application E22/138 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 mother has a spinal cord injury, which occurred in 2017, and has had surgery to stabilise her condition. Her medical report notes that review with the spinal care team and maternal medicine team confirmed that, due to risks of pregnancy, surrogacy will be the best option for the intending mother to have a family. The main issue that was identified was a risk of life-threatening illness during pregnancy and risk of a number of serious pre-birth conditions for the intending mother.
- The reports also state that the intending couple have been trying to conceive since 2017.
- ECART would like to see the spinal care team's reports along with further detail from the intending mother about her views in relation to the risks of carrying a pregnancy as expressed in the reports and why, for her, the surrogacy is the best or only option to have a family. If it is the case that the specialist reports suggest that carrying a pregnancy would be an option for the intending mother, then ECART requests a counselling report on why the intending parents wish to pursue surrogacy and why they consider it the best or only option for them.
- The intending mother has a genetic condition which will require genetic testing of the embryos to check that they are suitable for transfer. A genetic counselling report submitted with the application recommends PGT prior to transfer.
- The intending parents and birth parents met online via social media, and they have developed a relationship and describe regular contact. They have declared intentions to continue their relationship irrespective of the outcome of this intended arrangement. If successful, they would like the child to know of the role the birth mother played in their life and for all the children would know each other.
- The birth parents have their own children and consider their family to be complete. The birth mother describes having wanted to be a surrogate for some time since having her own children and, feels that now is the right time. She has also previously been a clinic egg donor.
- The birth mother's pregnancy and birthing history and the important considerations for her as a surrogate and the potential child were discussed.

She has had one previous pregnancy with complications which were managed successfully with her baby being delivered pre-term at low birth weight. Her other pregnancies and births did not require intervention and the antenatal period was uneventful. Medical advice was that she has had straight forward pregnancies and recommends her as a surrogate. The risks of a surrogate pregnancy with a foetus not genetically related to her have been explained to her.

- The birth mother takes medication to manage mental health conditions and the application describes these conditions as being well managed through medication and lifestyle choices. She started taking the medication after the birth of her first child and has continued taking the medication during her previous pregnancies without harm. A letter from her GP notes her medication and states that her mental health is stable and there are no concerns about her acting as a surrogate.
- ECART considers it appropriate that the intending parents be made aware the birth mother needs to be on medication and the risks associated with this for any potential child.
- The birth partner has disclosed a previous criminal conviction from many years ago when he was a teenager. It is described as being of a serious but non-violent nature and the counsellor has stated that it did not involve offending against pregnant women or children. The birth partner is described as having been forthcoming about the conviction and the counsellor has seen a copy of the report. ECART has not been provided with a copy of the report and the birth partner has not told the intending parents of the conviction as he thinks it is not relevant to the surrogacy and doesn't want the intending parents to be aware of it given it is not relevant to the surrogacy arrangement.
- While ECART acknowledged that the conviction was a long time ago and has been described as not being of relevance to the intended surrogacy arrangement in the sense that of any risk to the birth mother or the unborn child, it is of the view that this intended arrangement involves a relationship that requires high trust and transparency and on these grounds ECART thinks this is something that requires full disclosure to the intending parents in the context of joint counselling.
- The counselling sessions have canvassed treatment, pregnancy and birthing plans, as well as practical assistance that the intending parents can offer the birth mother and her family. The parties have agreed that the health of the birth mother is paramount and that if there was any threat to her health that they would agree to a termination.
- The intending mother has signalled that it would be difficult for her to care for a baby with high needs given her condition but that she and her partner would accept a child in any event. The birth parents are also clear that they would relinquish the baby. Testamentary guardianship has been discussed.
- The intending parents intend to adopt the child and have received an adoption order in principle from Oranga Tamariki.

## **Decision**

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

## **Actions**

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

### **15. Response for application E22/055 for surrogacy involving an assisted reproductive procedure**

Jeanne Snelling 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:**

- ECART first considered this application in April 2022 and agreed to defer it. The intending parent is a single woman who has had embryos created with donated sperm and her sister has offered to act as a surrogate for her. ECART deferred the application and requested the following further information:
  - Whether the cause of the intending mother's renal failure is genetic, and if it is, whether appropriate counselling has been provided to the intending mother (including the possibility of Preimplantation Genetic Diagnosis if it involves a monogenic condition)
  - The current health status of the intending mother in light of what appears to have been a second recent renal transplant, noting that there is no discussion in relation to a second renal transplant in the reports and the letter from the renal physician does not mention this.
  - Confirmation that the intending mother is aware that, at an advanced maternal age, the chances of successfully conceiving a child are significantly reduced.
  - Confirmation that the birth partner's child would receive independent counselling if a pregnancy is established
  - Confirmation that formal arrangements will be put in place in the event of a pregnancy.
  
- The report from a genetic counsellor included with the response states diagnosis of a genetic kidney condition which is likely to be autosomal recessive/carried by both parents, that genetic testing can be done and the chances of finding a cause are estimated at about 30 percent. The chances of the sperm donor having the same genetic mutation would be less than 1 in 120. The advice the intending mother received was that she could do the testing for her own personal benefit but would not need to go to the sperm donor to ask for testing.
- The response notes in relation to the health status of the intending parent that she is in reasonable health and doesn't require dialysis. There had been discussion about a second renal transplant, but it has not happened, and the reference to this having occurred in the original report to ECART was a mistake.
- The intending parent has been counselled about the implications of her advanced maternal age.
- Confirmation has been given that the birth partner's child will have independent counselling if a pregnancy is established.
- Confirmation of testamentary guardianship in the event the intending parent could not care for the child has also been provided in the response.

- In light of the information provided in the response, ECART was satisfied that the intending parent knows her condition has a genetic cause and ECART is of the view that it is her choice to decide whether to get the sperm donor tested.

### **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.

### **Response for application E22/089 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:**

- ECART first reviewed this application in June 2022 and deferred it to request that the birth mother be referred for a review by an obstetric specialist for an assessment of her suitability to act as a surrogate in light of her birth history; to ensure that she is fully informed of the risks of carrying a further pregnancy and another birth in light of her birth history; and, if the birth mother is considered suitable to act as a surrogate by an obstetric specialist and wishes to proceed, that a birth plan is developed to mitigate identified risks.
- A response has been received that sets out all the matters. The committee noted discussion around post-partum haemorrhage but not the secondary tear and agreed that this is likely because the tear was inconsequential and won't pose additional risk.

### **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.

## **16. Consideration of extended storage applications**

### **Meeting close**

Confirmation of next meeting to be determined by email in between meetings.

Confirmation of ECART member in attendance at next ACART meeting on 26 August 2022, Dr Emily Liu.