

Minutes of the one hundred and thirteenth meeting of the Ethics Committee on Assisted Reproductive Technology

8 August 2025

Held online

In Attendance

Dr Jeanne Snelling	Chairperson
Dr Analosa Veukiso-Ulugia	Member
Dr Annabel Ahuriri-Driscoll	Member
Dr Emily Liu	Member
Mrs Mania Maniapoto-Ngaia	Member
Dr Mike Legge	Member
Mr Richard Ngatai	Member
Mr Peter Le Cren	Member
Mr Jonathan Darby	Member
Dr Simon McDowell	Member
Dr Angela Ballantyne	Member
Ms Lana Stockman	Member
Dr Karaitiana Taiuru	ACART member in attendance
ECART Secretariat	
Dr Sam Lepine	Observer, Fertility Associates
Ms Wendy Hoar	Observer, Fertility Associates
Mr Ben Clayton	Observer, Ministry of Health

Apologies

1. Welcome

The Chair opened the meeting and welcomed all in attendance.

2. Karakia

Dr Analosa Veukiso-Ulugia gave the opening Karakia.

3. Conflicts of Interest

No updates to the register and one declared conflict of interest in relation to applications considered at this meeting.

- Dr Simon McDowell for application 23234 for clinic-assisted surrogacy

4. Confirmation of minutes from previous meetings

The minutes from the 12 June 2025 meeting were confirmed.

5. Application 22923 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:

- In this application for surrogacy with donated eggs, there is no indication that the parties are entering into the arrangement for social or financial gain; the intending parents are a male couple who need a surrogate and an egg donor to help them start their family and their close friends have made altruistic offers to help. A child born of this arrangement will have a genetic link to IP2 as embryos for transfer to the surrogate have been created with his gametes.
- This is the intending parents' second surrogacy application to ECART with a new surrogate and the same egg donor. The first application was approved in 2023, but the surrogate changed her mind, and the arrangement did not go ahead.
- An updated counselling report has been provided with this second application for the egg donor who is a close friend of the intending parents. The report describes that she is supportive of the intended arrangement with the new surrogate. An updated medical report confirms that there are no new health issues or concerns identified.
- The relationships between the parties appear to safeguard the wellbeing of all parties including existing and potential children. The surrogate made her offer freely to the intending parents in the context of their friendship when their previous arrangement did not work out. This offer as well as their plans to continue their friendship post surrogacy speaks to their close relationship and having been in each other's lives for a long time. The surrogate couple have two children and have started to talk with them about the possibility of their mum being a surrogate for the intending parents. All parties have declared intentions to be open with the potential child about the roles the egg donor and surrogate played.
- The Committee noted that no health issues were identified in the medical reports that might affect the potential child. The Committee discussed the surrogate's pregnancy and delivery history and the important considerations for her in carrying a surrogacy pregnancy and for the potential child. Independent medical advice received in relation to an aspect of her health noted in the clinic reports, confirms that this should not be an issue for a future pregnancy and clears her to go ahead with the intended surrogacy pregnancy. Her fertility specialist has also stated the general risks associated with carrying a surrogacy pregnancy and that they are not increased in this situation.
- The Committee noted that the medical report for the surrogate had not been shared with the intending parents and, while the risks to her and the potential child have been described as low, and that it would request that the report be shared regardless in the interests of transparency and also in the interest of the intending parents being aware of what a surrogate will take on for them. It was noted that the medical report was completed before the additional specialist

reports and that usual practice is that medical information is shared between parties where relevant, but whether this has been done in this case is not clear.

- The parties have discussed in their implications counselling pregnancy and birth plans and other aspects of the surrogacy. They consider that their strong relationships lay the foundation for them to work through any issues that arise together. The parties have also been advised of, and discussed, their rights and responsibilities in the context of the intended arrangement. There were no cultural practices with tikanga that the parties deemed important to note in relation to this process.
- The intending parents have declared they would love and accept any child born of this arrangement. In the unlikely event that they could not care for the resulting child, they have nominated testamentary guardians. Oranga Tamariki have approved an adoption order in principle.
- Both parties have received independent legal advice, and the reports submitted with this application covers the legal aspects thoroughly.

Decision

The Committee agreed to **approve** this application subject to receiving confirmation that the medical report for the surrogate has been shared with the intending parents.

Actions

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

6. Application 22371 for surrogacy involving an assisted reproductive procedure – response to deferred decision

Angela Ballantyne opened the discussion for this response. The Committee considered this response 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 Committee noted its obligation under the HART Act to be guided by the principle that health and wellbeing of women must be protected in the use of procedures. The Committee agreed that in this case, it needs to be reassured that the appropriate measures have been put in place to ensure that the intended arrangement will be a safe and positive process for the surrogate.
- When the Committee first considered this case, its initial concern and question was whether the surrogate together with the intending parents had seriously considered the implications of the intended arrangement in relation to all the aspects of the surrogate's life.
- ECART had deferred this application to request an obstetric report for the surrogate and confirmation that this report was shared with the intending parents. The Committee also requested to see the support plan for the surrogate and a letter from Oranga Tamariki that approved an adoption order following IVF surrogacy in principle.
- The Committee was satisfied with the obstetric report provided in response and the confirmation that it had been shared with the intending parents. The Committee noted the direction in the report that the surrogate be referred, when

pregnant, to the high-risk pregnancy clinic. The Committee queried whether there was needed or proportionate given the general risks set out in the obstetric report. It was noted that different centres may have different referral thresholds. That there is some flexibility reassured the Committee especially given that the direction seemed to be at odds with the information in the surrogacy support plan, which consistently indicated the surrogate would use a midwife or hospital as appropriate.

- The Committee discussed a number of concerns it had about the support plan provided. The Committee agreed the plan did not provide the information it wanted to see to assuage its original concerns in relation to the parties fully understanding what this surrogacy might involve for the surrogate.
 1. The plan seems to have been solely completed by the surrogate when the Committee had hoped for an indication of how the intending parents would lean in to support the surrogate in her particular social situation.
 2. The plan lacked detail.
- It was noted that the support plan appears to be a generic pro forma that puts the onus on the surrogate to say what support she has in place for herself, rather than how she will be supported, including by the relevant parties. The Committee noted that its concerns may not have been clear or fully understood.
- The Committee agreed that while the response did not provide the level of detail that it wanted to see that that surrogate had nonetheless addressed the questions in the support plan.
- It was noted more broadly that ECART needs to protect its decision-making processes. The Committee therefore agreed it would take an educative approach and draft correspondence for fertility providers that sets out its expectations and, to include examples of plans that provide information that would satisfy the Committee that a surrogate is well supported.

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.

Committee to draft a separate letter to the clinic that sets out its expectations for support plans for surrogates with examples of plans that provide information that would satisfy the Committee that a surrogate is well-supported.

7. Application 23235 for surrogacy involving an assisted reproductive procedure with egg donation

Peter Le Cren 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 parents are a male couple who need an egg donor and gestational surrogate to help them have a child. The egg donor is the sister of one of the intending parents and this means that a child born of the intended arrangement will have a genetic link to both intending parents (embryos have been created from one father's sperm and the other father's sister's eggs). The embryos have been genetically tested, and no concerning genetic findings that could impact on the future child's health have been found as a result.
- The surrogate has completed her own family, and the medical reports provided with this application set out the important considerations for her in carrying a surrogacy pregnancy. While the reports note there is increased risk of gestational diabetes that will require management if needed, they note no medical contraindication to the surrogate carrying a surrogacy pregnancy.
- The Committee noted that this case is somewhat complex jurisdictionally as the intending parents are in New Zealand and the surrogate who is a family member of one of the intending parents, lives offshore in Australia. She and the intending parent she is related to have known each other their entire lives and have maintained a strong relationship despite geographical distance.
- Pre-surrogacy counselling for the surrogate has happened in Australia as the counsellors in New Zealand were of the view that because of the extra jurisdictional nature of the intended arrangement that they were not in a position in terms of professional practice, to advise the surrogate. Counselling notes from the Australian counsellors were provided and the Committee noted that they differed from the content that it usually sees. The Committee agreed that in future it would like to see the counselling provided in the New Zealand forms as the NZ forms differ in what information is required for ECART's consideration and that this would be communicated to fertility treatment service providers.
- The parties have received joint counselling in New Zealand that covers the complexity of an international surrogacy arrangement. Pre-pregnancy care will occur in Australia and embryo transfer in New Zealand. The pregnancy and birth will occur in Australia and legal adoption will occur in New Zealand. The intending parents plan to travel to Australia for the birth and to take the baby home when legally able to do so. The intending parents have received independent legal advice in New Zealand. They are clearly committed to accepting any child born of this arrangement and have received approval from Oranga Tamariki for an adoption order in principle.
- It was noted that there appears to be a reasonable degree of insight on the part of the parties in terms of the difficulty for the intending parents to provide practical support for the surrogate across the geographical distance. They have declared that they are committed to maintaining connections and transparency and doing what they can to support the surrogate. The intending parents have also declared that they would visit the surrogate where possible taking into account cost and work implications. A support plan for the surrogate was submitted with this application and while it is in part proforma, it was helpful in describing the close networks available to support the surrogate where she lives.
- It was noted that the intended arrangement has many supportive elements: a close and transparent familial relationship among the parties, comprehensive

counselling and legal planning, genetic links for the child to the family, and an altruistic motivation (the surrogate offered to help after learning the couple's first surrogate fell through, with no coercion or compensation involved).

- The Committee discussed two primary issues: ensuring the surrogate's understanding of her legal rights and responsibilities under Australian law and its implications for her and the potential child, and the plan for managing the surrogate's stated birth preferences in the Australian healthcare context.
- A key question the Committee had was whether the surrogate had received independent, legal counsel in Australia to advise her (separate from the advice obtained from an NZ lawyer). The documents submitted with this application included a detailed opinion from an Australian lawyer. Purportedly, this advice was generated for the surrogate, but it confusingly referred to both the surrogate and the intending parents as "clients" at different points. The advice was sought by the intending parents' lawyer and apparently provided to him and the intending parents. This raised a concern for the Committee as to whether the surrogate had obtained adequate independent advice.
- The surrogate's NZ legal advice (from a separate NZ lawyer) covered related issues such as updating her will, appointing testamentary guardians, and ensuring no unauthorized parentage registration occurs overseas. The Committee acknowledged that while the counselling sessions covered the possible contingencies if the intending parents were not able to travel to Australia for the birth and the baby was in hospital, the written legal advice from the Australian lawyer did not address the specific questions that a surrogate might reasonably have in a clear and meaningful way. Because the surrogate plans to give birth in Australia and the child will be an Australian citizen at birth, the Committee noted the importance of her having a sound and independent understanding of what that means for her, for her own children and, for the child who will be born in Australia. This is particularly important because of apparent complexity and uncertainty in application of Australian federal and state law to the circumstances of this case, for example on the question of parentage. The implications of birth in Australia are significant.
- The Committee noted that the surrogate had clearly stated she would prefer to have a caesarean section delivery and the legal report from the Australian lawyer states that private medical cover is needed for an elective caesarean section delivery. This is a potential issue (if the surrogate is only prepared to have a c-section delivery) that needs to be further discussed in advance between the parties before the process begins as it is not clear whether this is an option open to the surrogate and who will cover the cost of an elective procedure.

Decision

The Committee agreed to **approve** this application **conditional on** the surrogate receiving independent legal advice to ensure ECART can be assured that the surrogate has understood the Australian legal position.

Approval will also be conditional on a receipt of a reassurance that the parties have discussed the surrogate's preference for an elective caesarean section delivery and come to an agreement that is acceptable to all of the parties.

Actions

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

The Committee agreed to assign the response to the Chair and Mr Peter Le Cren for review and decision in between meetings.

8. Application 23234 for surrogacy involving an assisted reproductive procedure with egg donation

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.

Dr Simon McDowell declared a conflict of interest and did not take part in the discussion or decision-making.

Issues discussed included:

- In this application for surrogacy the intending parents are a male couple who need an egg donor and gestational surrogate to help them have a child. The intending parents met both the egg donor and the surrogate via an online platform and describe having established a strong and supportive relationship with both women since meeting them. The intended arrangement gives the intending parents the best opportunity to parent a child who would have a genetic link to one of the intending parents (embryos have been created from one father's sperm and the donor's eggs).
- The surrogate has completed her own family. She has made the decision to not tell her own children about her offer to be a surrogate for the intending parents before knowing the outcome of this application. They have declared that they will tell their children once an application is approved and that the intending parents would also meet the children and that there would be ongoing transparency and openness. The surrogate chose to make her offer to a couple who live locally to her so that they could be more involved during a pregnancy.
- The Committee was satisfied that comprehensive joint counselling has been completed, and canvassed the implications of the intended arrangement well, covering relevant and important issues such as the surrogate's motivation, boundaries during pregnancy, and plans for openness with any child born (the couple and surrogate families intend to stay in frequent contact post-birth, and to be open with the child about their birth story from early on). The surrogate's motivation was reported as altruistic and there is no evidence to suggest any of the parties will benefit financially from the intended arrangement.
- The Committee discussed the surrogate's medical history and the important considerations for her in carrying a surrogacy pregnancy. The surrogate is medically well, and her own children were born without the need for medical intervention. The Committee noted mention in the egg donor's medical report of a syndrome she has experienced and the medical view that there is a theoretical and small risk of the potential child being affected. The Committee noted that given the syndrome is not triggered by hormonal changes in

pregnancy that the risk is small. Also, the egg donor has had her own children and donated eggs in the past without any issue.

- The Committee noted that the surrogate has experienced mild depression, which has been attributed to social stressors rather than to postnatal depression. A specialist psychological evaluation was provided with the application; it concluded the surrogate's depression was situational and resolved, and that she is well-supported now with strategies to mitigate any recurrence. The reports also describe a good social support and emotional and practical support for the surrogate from her immediate and extended family and friends and the intending parents have also thoughtfully considered how they can best support her pre, during and post pregnancy.
- Both parties have received independent legal advice, and the Committee was satisfied that the advice received was comprehensive and thorough. The intending parents have appointed a testamentary guardian in the unlikely event that they are unable to care for a child born of this arrangement. The intending parents intend to adopt the future child and have received approval for an adoption order in principle from Oranga Tamariki.
- The surrogate's children do not know about the intended arrangement, but the Committee was satisfied that the surrogate had declared that she intends to discuss the intended arrangement openly with her own children when ECART approval is given and, that the counselling practice is to offer counselling for children when requested.

Decision

The Committee decided to **approve** the application.

Actions

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

9. Application 23096 for surrogacy involving an assisted reproductive procedure

Simon McDowell 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 intended surrogacy arrangement is the second surrogacy arrangement for the intending parents. The first was successful and they have an existing child born of that arrangement who is their full biological child.
- Pregnancy is contraindicated for the intending mother due to a cancer diagnosis. The Committee noted that the application has little information about her prognosis and discussed whether to request further information about this. It agreed that because that her condition is described as having been stable for some time and because the other intending parent is well, that it would not request further information.
- The Committee was satisfied that the indications for a surrogacy arrangement remain, the concern that being pregnant could stimulate return of the cancer

was valid and, that a surrogacy arrangement offers the intending parents the best opportunity to complete their family.

- The intending parents are New Zealand citizens currently living in Australia. The surrogate who is a close friend of the intending parents is resident in New Zealand and the treatment, pregnancy, birth and adoption will take place in New Zealand. Both parties have received independent legal advice, and the Committee was satisfied that there are no unresolved legal issues. The intending parents have received approval for an adoption order in principle from Oranga Tamariki.
- The relationships between the parties safeguard the well-being of all parties including existing and potential future children. The surrogate is a longstanding friend of the intending mother. The two women have known each other since they were young.
- The Committee was satisfied that the surrogate has been well counselled and has had appropriate medical assessment. It did discuss however, the surrogate's strong preference for an elective caesarean section delivery. It was noted that in New Zealand's public maternity system, maternal request caesareans require clinical justification so her preference might not be guaranteed and therefore it is important that she be made aware of this and of her options. The Committee agreed that it would be important for her to consider what she would do if a c-section delivery is not an option before receiving an embryo transfer.
- The Committee agreed to recommend in its decision letter that the surrogate engages with a specialist to discuss her birth plan so that her expectations can be discussed and appropriate plans made.

Decision

The Committee decided to **approve** this application and to recommend in its decision letter that if the surrogate's preference for a caesarean section delivery is essential to her, then it would be important for her to clarify her options in relation to mode of delivery before a pregnancy is established.

Actions

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

10. Application 22839 for surrogacy involving an assisted reproductive procedure – response to conditional approval decision

Mania Maniapoto-Ngaia opened the discussion for this response. 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 initially considered at ECART's June hui where it was approved on the condition that the surrogate receive independent legal advice about testamentary guardianship and updating her will and, on receipt of Oranga Tamariki approval in principle for an adoption order following IVF

surrogacy. The Committee also recommended that the surrogate be referred to specialist care when she is pregnant.

- The surrogate has obtained legal advice about her rights, confirming she would be the legal mother at birth, and discussing guardianship of any surrogate-born child. She has named testamentary guardians for her own children although it was noted she has not formalized a will yet but is aware of the importance of doing so. Oranga Tamariki has provided a letter approving an adoption order in principle. The Committee agreed the response sufficiently met its requirements.

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 22668 for embryo donation – response to deferred decision

Mike Legge opened the discussion for this response. 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 Committee deferred this application in June 2025 pending an updated obstetric review for the recipient woman as the obstetric report submitted with the application was a few years old.
- The updated report provide indicates no emerging problems and recommends obstetric care and treatment during pregnancy to mitigate any risks. The report also set out that the medications the recipient woman is on carry a very small increased risk of fetal heart defects.

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. Request for ECART to consider and approve feasibility testing for PGT-M

Dr Jeanne Snelling opened the discussion for this item.

- The Committee discussed the context of a request it received in June 2025. The request came from a fertility clinic for an New Zealand based laboratory to perform feasibility testing for preimplantation genetic testing (PGT-M) for a couple who are both carriers of a particular gene variant and who have a child with a serious and rare disorder.
- Genetic testing has been declined on the basis that the gene variant for which the testing was requested is a variant of unknown significance. As such, there is no diagnosed genetic condition and therefore it be performed as an

established procedure under the HART Order 2005. Consequently, it could only be performed with prior ECART approval, which cannot be given in the absence of ACART Guidelines.

- Despite the proposed testing not falling within the HART Order, the family's clinical team support providing PGT-M in this particular case.
- ECART does not have the jurisdiction to consider the request as the procedure is not covered by any ACART guidelines. In cases where procedures are not covered by ACART guidelines ECART must decline an application and refer it to ACART (s18(2) of the HART Act). ECART notified ACART of the request in June of this year. ACART considered the matter at its June 2025 meeting, resolving to prioritise a review of the regulation of PGT-M in their current work programme.
- The Committee discussed whether, given the circumstances of this case, it could fall within the HART Order as an established procedure. The Committee discussed whether it might provide an argument to ACART that in this particular case, the testing could fall within the HART Order as an established procedure but agreed that before doing this it would arrange to meet with the laboratory to discuss the science.

Actions

Secretariat to organise a meeting with the laboratory to discuss the science.

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

13. Consideration of extended storage applications

Led by Ms Lana Stockman

Meeting close

Confirmation of next meeting on 10 October 2025.

Confirmation of ECART member in attendance at next ACART meeting on Thursday, 14 August 2025, Mr Peter Le Cren.

Dr Analosa Ulugia-Veukiso led the closing Karakia.