

# LEGISLATIVE COUNCIL SELECT COMMITTEE

## SURROGACY

### MINUTES

2 APRIL 2008

The Committee proceeded to business at 8.53 am  
in Committee Room No. 3, Parliament House, Hobart.

**Members Present :**

Mrs *Smith*  
Ms *Thorp*  
Mr *Wilkinson*

**In Attendance:**

Mrs McLeod  
Mrs Mann

**Order of Parliament :**

The Order of the Parliament appointing the Committee dated 1 April 2008, having been circulated, was taken as read.

**Election of the Chair :**

Ms *Thorp* was elected Chair and took her place.

**Business :**

**Resolved.** That -

- (a) witnesses be heard under Statutory Declaration.
- (b) evidence be recorded verbatim unless otherwise ordered by the Committee.
- (c) advertisements be inserted in the early general news pages of the three daily Tasmanian newspapers on Saturday, 5 April 2008 and that receipt of written submissions be conditioned for closure on Friday, 2 May 2008. The draft advertisement was agreed to.
- (d) the Secretary send invitations to make submissions to :
  - Royal College of Gynaecology
  - Royal College of Obstetrics
  - Law Society
  - Law Reform Institute

**Other Business :**

***Resolved,*** That –

- A press release be sent to all media on Friday, 4 April advising of the Committee's establishment and request for submissions.
- Hearings being held on Monday, 19 (commencing at 11 am) and Tuesday, 20 May 2008.

At 9.11 am the Committee adjourned until Monday, 19 May 2008.

## LEGISLATIVE COUNCIL SELECT COMMITTEE

# SURROGACY

## MINUTES

21 May 2008

The Committee proceeded to business at 9.40 am  
in Committee Room No. 2, Parliament House, Hobart.

### Members Present :

Mrs *Smith*  
Ms *Thorp*  
Mr *Wilkinson*

### In Attendance:

Dr Huntly  
Mrs Mann

### Adoption of Minutes:

The Minutes of the meeting held on Wednesday 2 April 2008 were adopted.

### Inwards Correspondence:

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- Emails dated 6, 8 and 10 April 2008 from Jane Lewis requesting instructions for forwarding a submission
- Submission dated 14 April 2008 (**confidential witness**) (**Sub. No. 1**)  
**RESOLVED** that this is a document to which Standing Order 202 applies.
- Letter dated 16 April 2008 (**confidential witnesses**) (**Sub. No. 3**)  
**RESOLVED** that this is a document to which Standing Order 202 applies.
- Submission dated 21 April 2008 (**confidential witnesses**) (**Sub. No. 2**)  
**RESOLVED** that this is a document to which Standing Order 202 applies.
- Submission dated 17 April 2008 from Ms Erin Hopson and Mr Malcom Duggan (**Sub. No. 4**)
- Submission dated 28 April 2008 from Ms Jane Lewis (**Sub. No. 5**)
- Submission dated 1 May 2008 (**confidential witnesses**) (**Sub. No. 6**)  
**RESOLVED** that this is a document to which Standing Order 202 applies.
- Submission dated 1 May 2008 from Dr Lucy Tatman (**Sub. No. 7**)
- Submission dated 2 May 2008 from Australian Christian Lobby (Nick Overton) (**Sub. No. 8**)
- Submission dated 25 April 2008 from Newcastle University Student Association's Women's and Queer Collectives (**Sub. No. 9**)

- Submission received 5 May 2008 from Mr Michael Ferguson **(Sub. No. 10)**
- **Confidential witnesses** desire to have discussions with the Committee **(Sub. No. 3)**
- Email dated 16 May 2008 from Margaret Otlowski confirming she will be appearing with Professor Don Chalmers on 21 May 2008
- Email with attached letter dated 9 May 2008 from Senator Stephen Conroy advising he wishes to give verbal evidence **(Sub. No. 11)**

#### **Outwards Correspondence :**

The Committee considered the outward correspondence and; **Resolved** that the following correspondence be endorsed -

- Letter dated 11 April from Secretary to Mr Dante D'Alessio, Head of Cabinet, Italian Government, requesting a meeting with Mr Wilkinson in Rome during May 2008
- Dr Huntly's response letters/emails/fax to -
  - a. Jane Lewis dated 8, 9 and 11 April 2008
  - b. **Confidential** dated 23 April 2008 **(Sub No. 1)**
  - c. **Confidential** dated 23 April 2008 **(Sub No. 3)**
  - d. **Confidential** dated 22 April 2004 **(Sub No. 2)**
  - e. Ms Erin Hopson and Mr Malcolm Duggan 28 April 2008
  - f. Ms Jane Lewis submission response dated 1 May 2008
  - g. **Confidential** dated 2 May 2008 **(Sub No. 6)**
  - h. Dr Lucy Tatman submission response dated 2 May 2008
  - i. Australian Christian Lobby (Nick Overton) submission response dated 2 May 2008
  - j. Newcastle University Student Association Women's and Queer Collectives submission response dated 2 May 2008
  - k. Mr Michael Ferguson submission response dated 5 May 2008
  - l. **Confidential** dated 1 May 2008 **(Sub No. 3)**
- Letters dated 28 April 2008 to Professors Kirby and Chalmers inviting them to address the Committee on 21 May 2008
- Letter dated 15 May 2008 to Professor Otlowski confirming appointment to address the Committee on 21 May 2008

**M: LT/JW**

#### **Matters Arising:**

##### **Future Program :**

The Committee considered the continuing and future program of business and; **Resolved** that –

- hearings be held on 1 July 2008 in Hobart. Private hearings to be held separately after the luncheon adjournment on that day.
- a meeting to discuss the draft report be held prior to the Council sitting on 8 July 2008

#### **Private Hearings :**

At 10.08 am Professors Chalmers and Otlowski made the Statutory Declaration and gave evidence.

Professor Chalmers Tabled the following documents:

- Investigation into Altruistic Surrogacy Committee – Issues Paper – Queensland Parliament – May 2008
- Victorian Law Reform Commission – ‘A.R.T. Surrogacy and Legal Parentage: A Comparative Legislative Review’ (undated)
- ‘Surrogacy: Art’s Forgotten Child’ – UNSW Law: Journal – Forum
- ‘Reproduction Rights – The Growing Acceptance of Surrogacy’ – April 2005 – Article by Victoria Lambropoulos, Associate Lecturer in the Faculty of Law at Deakin University.
- Papers – Topic: Matrimonial Law –
  - ‘International Surrogacy – A Cautionary Tale’ – Author Darren Howe – Jordan Publishing Limited 2008
  - ‘Conceiving Parents through Law’ – Author Angela Campbell - Jordan Publishing Limited 2008
- Australian Government – National Health and Medical Research Council – ‘Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research’ – June 2007

Professor Otlowski Tabled the following documents:

- Extract from Australian Journal of Family Law – pages 17-23 – ‘Looking backwards, looking forwards: Judicial and legislative trends in the regulation of surrogate motherhood in the UK and Australia’
- (1) RE an application; *Births Deaths And Marriages Registration Act 1997* – pages 87,345 – 87,347
- (2) Part III –Presumption of parenthood as a result of fertilisation procedures - *Status of Children Act 1974 (No. 36 of 1974)*;
- (3) *Australian Family Law Act 1975* – Pages 164 and 165
- *Parentage Act 2004* – Australian Capital Territory

The witnesses withdrew at 11.30 am

The Committee suspended at 11.30 am

The Committee resumed at 11.35 am

At 11.35 am Professor Ken Kirkby made the Statutory Declaration and gave evidence.

The witness withdrew at 12.22 pm

The Committee discussed issues arising out of the briefings given by the above witnesses.

**Draft Report :**

The Committee provided guidance to the Secretary relevant to the preparation of a Draft Report and instructed him to prepare a Draft Report for consideration at the next meeting.

**Next Meeting :**

At 12.40 pm the Committee adjourned until Tuesday 1 July 2008 at 10.30 am.

## LEGISLATIVE COUNCIL SELECT COMMITTEE

# SURROGACY

## MINUTES

1 JULY 2008

The Committee proceeded to business at 10.05 am  
in Committee Room No. 2, Parliament House, Hobart.

### **Members Present :**

*Ms Rattray-Wagner*

*Ms Thorp*

*Mr Wilkinson*

### **In Attendance:**

Dr Huntly

Mrs Mann

### **Adoption of Minutes:**

The Minutes of the meeting held on 21 May 2008 were adopted.

### **Inwards Correspondence:**

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- Letter dated 6 May 2008 from Ms Linda Lavarch MP, Chair, Investigation into Altruistic Surrogacy Committee (Queensland) inviting Committee to make a submission to their investigation
- Submission (dated August 2007) received 21 May 2008 from Mr Bill Muehlenberg (**Sub. No. 12**)
- Letter of resignation dated 11 June 2008 from Hon Sue Smith MLC due to her appointment as President of the Legislative Council.
- Order of the Legislative Council appointing Hon Tania Rattray-Wagner MLC to the Committee on 17 June 2008 in the place vacated on the resignation of Hon Mrs Sue Smith MLC.
- Email dated 28 May 2008 from Judy Jackson (**Sub. No. 13**) - request to present verbal evidence

### **Outwards Correspondence :**

The Committee considered the outward correspondence and; **Resolved** that the following correspondence be endorsed -

- Response letter dated 22 May 2008 to Mr Muehlenberg (**Sub. No. 12**)

**M: LT/JW**

### **Matters Arising:**

- The Committee agreed to forward a letter to Ms Linda Lavarch advising the Committee will not be making a submission to the Queensland Investigation into Altruistic Surrogacy
- The Committee **resolved with acclamation** to express its gratitude to the Hon President for her prior service on the Committee and note her letter of resignation on her elevation to the presidency of the Council.
- The Chair welcomed Hon Tania Rattray-Wagner MLC to the Committee.

The Chair suspended proceedings at 10.13 am.

The Chair reconvened proceedings in a public hearing and admitted the Gallery at 10.15.

### **Public Hearings :**

Ms Erin Hopson and Mr Malcolm Duggan (**Sub. No. 4**) made the Statutory Declaration and were examined.

The witnesses withdrew and the Gallery was cleared at 10.44 am

The Committee deliberated on the Draft Report.

The Chair reconvened proceedings in a public hearing and re-admitted the Gallery at 10.55 am.

At 10.58 am Senator Stephen Conroy (**Sub. No. 11**) was called, made the Statutory Declaration and was examined.

The witness withdrew at 11.40 am.

The Chair suspended proceedings at 11.40 am.

The Chair reconvened proceedings at 11.45 am.

Mr Nick Overton – Australian Christian Lobby (**Sub. No. 8**) was called, made the Statutory Declaration and was examined.

The witness withdrew and the Gallery was cleared at 12.20 pm

The Committee deliberated further on the Draft Report.

The Chair suspended proceedings at 12.30pm.

The Chair reconvened proceedings at 2.40 pm.



### **Private Hearings :**

**Confidential witnesses** (via phone link) (**Sub. No. 3**) were called, made the Statutory Declaration and were examined.

The witnesses withdrew at 3.26 pm.

**Confidential witness (Sub. No. 6)** was called, made the Statutory Declaration and was examined.

The witness withdrew at 3.55 pm.

The Committee deliberated further on the Draft Report.

**Confidential witnesses (Sub. No. 1)** were called, made the Statutory Declaration and were examined.

The witnesses withdrew at 4.36 pm.

### **Future Program :**

The Committee considered the future program of business and; **Resolved** that-

- The telephonic hook-up with **confidential witness (Sub. No. 14)** be rescheduled to next Tuesday, 8 July at 9.00 am
- The Committee meet again at 9.15 am on Wednesday, 9 July and Thursday 10 July for further consideration towards finalisation of the Draft Report

### **Draft Report :**

The Committee provided further guidance to the Secretary relevant to amendments and further information to be included in the Report.

### **Next Meeting :**

At 4.42 pm the Committee adjourned until Tuesday 8 July 2008 at 9.00 am.

# LEGISLATIVE COUNCIL SELECT COMMITTEE

## SURROGACY

### MINUTES

8 JULY 2008

The Committee proceeded to business at 9.02 am  
in Committee Room No. 2, Parliament House, Hobart.

**Members Present :**

*Ms Rattray-Wagner*

*Ms Thorp*

*Mr Wilkinson*

**In Attendance:**

Dr Huntly [see Item 3]

Mrs Mann

**Adoption of Minutes:**

The Minutes of the meeting held on 1 July 2008 were adopted.

**Business**

**Private Hearing:**

At 9.04 am **confidential witness (Sub. No. 14)** (via phone link) was called, made the Statutory Declaration and was examined.

The witness withdrew at 9.30 am.

[Dr Huntly (phone link) joined the meeting at 9.32 am]

**Draft Report :**

The Committee provided further guidance to the Secretary relevant to amendments and further information to be included in the Report. The Committee agreed to accept a late submission from Mr Rodney Croome on behalf of the Tasmanian Gay and Lesbian Rights Group.

The Committee discussed the Draft Report until 9.40 am.

**Future Program :**

The Committee considered the future program of business and; **Resolved** that-

- No more evidence be taken;
- the Report to be Tabled at a later date than was originally Resolved
- the Secretary email all members with the next meeting date and time and advise the meeting is for consideration of the Draft Report

**Next Meeting :**

At 9.45 am the Committee adjourned until 11.00 am on Thursday, 21 August 2008.

LEGISLATIVE COUNCIL SELECT COMMITTEE

**SURROGACY**

**MINUTES**

**21 AUGUST 2008**

The Committee proceeded to business at 11.14 am  
in Committee Room No. 2, Parliament House, Hobart.

**Members Present :**

*Ms Rattray-Wagner*  
*Ms Thorp*  
*Mr Wilkinson*

**1. In Attendance:**

Dr Huntly

**2. Adoption of Minutes:**

The Minutes of the meeting held on 8 July 2008 were adopted.

**3. Adoption of Final Report:**

The Committee considered the Final Draft Report, page by page and certain amendments were agreed to.

***Resolved:***

- That the Committee do adopt the Surrogacy Report as amended on 21 August 2008.
- That the Report so adopted be prepared for Tabling on the next days' sitting of the Legislative Council.
- That Committee staff be authorized to arrange for proof-reading and any minor grammatical and/or typographical corrections prior to Tabling.
- That the Secretary be authorized to consult with Mr Becher Townshend regarding the wording of a suitable media release prior to Tabling.

- That the Chair of the Committee be authorized to address the media on behalf of the Committee regarding the Report, once Tabled.

**4. Adjournment :**

At 12.16 pm the Committee adjourned *sine die*

**DATE**

**CHAIR**