On 8 October 2008, the Report into the Investigation into the Decriminalisation and Regulation of Altruistic Surrogacy in Queensland (the Report) was tabled in the Legislative Assembly. In accordance with the Parliament of Queensland Act 2001, an interim Government response to the Report was provided to the Clerk of the Parliament on 8 January 2009. A final Government response to the Report is now provided.

The Committee is to be congratulated for its examination of the complex issues around altruistic surrogacy.

The Government supports, and will implement, the Committee’s central recommendation that altruistic surrogacy be decriminalised in Queensland. The Government will also develop a mechanism for the transfer of legal parentage from the birth mother to the intending parents in altruistic surrogacy arrangements.

The Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

The Government notes the Standing Committee of Attorneys-General is currently considering a national model for regulating surrogacy and released a Discussion Paper on 16 January 2009 with submissions closing on 16 April 2009. The Government understands the Standing Committee of Attorneys-General will consider outcomes from this process later this year. The Government will consider the deliberations at a national level by the Standing Committee of Attorneys-General as part of the Government’s development of a Queensland model.

The Government will consult on a proposed framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage in Queensland in mid 2009.

Development of the final framework will be influenced by the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

The Government intends to have legislation finalised by the end of 2009.

The Government’s responses to each of the Committee’s recommendations are shown below.
RECOMMENDATION 1: RESPONSIBLE MINISTERS TO REPORT ANNUALLY TO PARLIAMENT
The committee recommends that the responsible Minister/s report annually to parliament on the implementation by their departments of the adopted recommendations in this report

Response
Not supported

Comments
The Government supports, and will implement, the Committee's central recommendation that altruistic surrogacy be decriminalised in Queensland.

The Committee's recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee's recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

Given these circumstances, the Government does not consider it appropriate to commit to regular annual reporting to Parliament on the adopted recommendations. Any responsibilities government agencies adopt as a result of the government's final policy framework will be reported in the usual way through departments annual reporting processes.

RECOMMENDATION 2: SIGNIFICANCE OF LANGUAGE
The committee recommends that the Queensland Government, when formulating legislation, guidelines and policy, uses the terms:
- 'Birth mother' to describe the surrogate mother;
- 'Intending parents' rather than 'commissioning parents' to avoid the use of perceived dehumanised or commercialised language; and
- Altruistic surrogacy 'arrangement' rather than 'agreement' to emphasise the altruistic nature of the endeavour.

Response
Support in principle

Comments
The Government believes that it is desirable for consistent language to be used across all Australian jurisdictions.

Therefore, whilst the Government supports in principle the use of the terms recommended by the Committee, the Government will also be influenced by the terms used in interstate legislation and the deliberations at a national level when deciding the language used in the regulatory framework the Government decides to adopt.

RECOMMENDATION 3: DECRIMINALISATION SUPPORTED WITH APPROPRIATE LEGISLATION AND REGULATION
The committee recommends that the Queensland Government decriminalises altruistic surrogacy supported with an appropriate legislative and regulatory framework as described in later recommendations.

Response
Support in principle.

Comment
The Government supports, and will implement, the Committee's central recommendation that altruistic surrogacy be decriminalised in Queensland. The Government will also develop a mechanism for the transfer of legal parentage from the birth mother to the intending parents in altruistic surrogacy arrangements.

As previously noted, the Committee's recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee's recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

RECOMMENDATION 4: DEFINING GOVERNMENT'S ROLE
The committee recommends that with the decriminalisation of altruistic surrogacy, the role of the Queensland Government is to develop and maintain an adequate legislative and regulatory framework which:

- Balances the prevention of harm and the protection of personal liberty in the creation of families through altruistic surrogacy; and
- Seeks parity in policy development for families created through altruistic surrogacy with other families created through assisted reproductive technology (ART) or natural conception.

In the current Queensland regulatory context, the committee believes the Government's key responsibilities should be as follows:

- Policy direction by defining altruistic surrogacy, guiding principles and outcomes for regulation and operational policy for acceptable altruistic surrogacy arrangements;
- Implementation of specific legislative or regulatory reform as required with a current focus on: strengthening ART regulation and providing a specific mechanism to transfer legal parentage for altruistic surrogacy;
- Direct service provision in terms of collection, maintenance and provision of access to birth and related information; and
- Ongoing monitoring and review of the implementation and effectiveness of legislation and regulation including research on client outcomes.

Response
Requires further consideration

Comment
As previously noted, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

RECOMMENDATION 5: DEFINING ALTRUISTIC SURROGACY
The committee recommends that the Queensland Government defines altruistic surrogacy in the Surrogate Parenthood Act 1988 as: a clear arrangement, whether formal or informal, agreed preconception between consenting adults for the birth mother to bear a child for the intending parent/s and to permanently transfer the responsibility for the child’s care and upbringing to the intending parent/s after the child’s birth.

Response
Support in principle

Comment
The Government supports in principle that the terms of the Committee’s recommended definition of altruistic surrogacy.

However, as noted previously, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework, including the definition of altruistic surrogacy, will be influenced by the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

RECOMMENDATION 6: FURTHER EXAMINATION OF TRADITIONAL TORRES STRAIT ISLANDER ‘ADOPTIONS’
The committee recommends that the Queensland Government considers options for the recognition of traditional Torres Strait Islander ‘adoptions’ (also refer to Recommendations 25 and 26)

Response
Issues are noted

Comment
The issue of Torres Strait Islander traditional child rearing practice was not included in the Committee’s terms of reference as determined by the Legislative Assembly when it resolved on 14 February 2008 to appoint the Committee. The Government considers that Torres Strait Islander traditional child rearing practice is distinct from altruistic surrogacy and it is
therefore not appropriate to consider it in the context of the Government’s response to the Committee’s Report.

RECOMMENDATION 7: REASONABLE EXPENSES
The committee recommends that the Queensland Government ensures the appropriate legislation and/or relevant regulation:
- Permits reasonable expenses for altruistic surrogacy as long as there is no material gain for the birth mother;
- Defines categories of permitted expenses as follows: medical, legal, counselling, travel/accommodation, childcare and insurance costs and lost earnings which are directly attributable to the altruistic surrogacy arrangement and not covered by existing entitlements or benefits. Paid maternity leave will be limited to a maximum of two months associated with the birth and additional leave during pregnancy where medically indicated; and
- Clarifies that payment of reasonable expenses is not enforceable as part of altruistic surrogacy arrangements.

Response
Support

Comment
The Government supports the Committee’s recommendation that legislation/regulation should permit reasonable expenses to be paid by the intending parents to the birth mother for altruistic surrogacy provided there is no material gain for the birth mother.

RECOMMENDATION 8: PROHIBITION OF ADVERTISING AND BROKERAGE
The committee recommends that the Queensland Government prohibits advertising and brokerage for altruistic surrogacy.

Response
Support

Comment
The Government agrees with the Committee that the prohibition of advertising and brokerage will help prevent the commercialisation of surrogacy.

RECOMMENDATION 9: ARTICULATING POLICY PRINCIPLES
The committee recommends that the Queensland Government articulates five key policy principles supported by specific outcome statements in legislation to guide the regulation of altruistic surrogacy in Queensland. The best interests of the child are articulated under the committee’s first three proposed principles. The five principles are as follows:
- Every child is nurtured, loved and supported;
- Every child has access to his/her identity;
- Every child enjoys the same status and legal protection irrespective of the circumstances of his/her birth or the status of their parents;
- The long-term health and wellbeing of the parties to a surrogacy arrangement and their families is promoted; and
- The autonomy of consenting adults in their private lives is respected.
Response

Support in principle.

Comment

The Government supports in principle the intent of the Committee's recommendation. The Government strongly believes that the best interest of the child must remain the paramount principle.

As previously noted, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

While specific outcome statements may not be included in new legislation, the Government respects the role of the family as primary caregivers for their children with responsibility for the upbringing and on-going wellbeing of their children.

RECOMMENDATION 10: GENETIC CONNECTION WITH INTENDING PARENTS AND BIRTH MOTHER

The committee concludes that it is desirable to pursue gestational surrogacy and it is desirable for at least one intending parent to contribute their gametes where possible. However, given the difficulties of accounting for people's differing capacities and beliefs in relation to genetic connection, the committee recommends that the Queensland Government:

- Avoids a prescriptive approach on genetic connection; and
- Permits the use of the birth mother's egg, donor gametes and donated embryos when accessing ART if endorsed by the Surrogacy Review Panel on expert advice that (a) surrogacy is needed and (b) the parties are prepared for possible risks. (See Recommendation 12 for more detail in relation to the panel.)

Response

Support in principle

Comment

The Government supports in principle the Committee’s recommendation, that a least prescriptive approach to the genetic connection of the child with the intending parents and the birth mother be implemented.

As previously noted, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.
Development of the final framework will be influenced by the Committee's recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

**RECOMMENDATION 11: GENETIC RELATIONSHIP AND TRANSFER OF LEGAL PARENTAGE**
The committee recommends that the Queensland Government maintains the status quo where the birth mother is automatically recognised as the legal parent irrespective of her or the intending parents' genetic relationship with the child.

**Response**
Support in principle

**Comment**
Under the *Status of Children Act 1978* (Qld), the birth mother of a child is the legal mother of that child. The Government supports in principle this recommendation and agrees with the Committee that maintaining the status quo is a cautionary approach that protects the birth mother and prevents her being forced to relinquish the child.

As previously noted, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

**RECOMMENDATION 12: ENHANCING EXISTING ART ASSESSMENT AND SUPPORT PROCESSES**
The committee recommends to the Minister for Health that Queensland Health enhance existing standards for assessment and support for altruistic surrogacy in ART services with provision for:
- Psychosocial assessment which is independent from psychosocial support;
- Further specification of the content and amount of independent psychosocial assessment and counselling;
- Provision of opportunities for counselling during pregnancy and after birth for the birth mother, her partner and the intending parents;
- Independent medical assessments for the birth mother and intending parents to assess health risks, need for surrogacy and any issues impacting on their capacity for long-term care of the child;
- Specialist, independent legal advice by a qualified lawyer provided separately for the birth parents and intending parents;
- A legislatively based Surrogacy Review Panel appointed by Queensland Health including members with relevant expertise in medicine, family law, ethics, psychosocial health and child development and a community representative to approve all applications for altruistic surrogacy and to inform the development and evaluation of ART standards in relation to altruistic surrogacy; and
A three month cooling off period after approval by the Surrogacy Review Panel before proceeding with treatment. The committee also recommends that the panel be sufficiently resourced to operate in a timely way and provide easy access to applicants across Queensland.

Response
Requires further consideration

Comment

The Government notes that parties who require access to Assisted Reproductive Technology to give effect to an altruistic surrogacy arrangement would approach private clinics providing Assisted Reproductive Technology services, making the arrangement subject to the safeguards set out in the National Health and Medical Research Council's Ethical Guidelines on the use of Assisted Reproductive Technology in Clinical Practice and Research 2007. The guidelines specify that private clinics must not facilitate surrogacy arrangements unless every effort has been made to ensure that participants:

- have a clear understanding of the ethical, social and legal implications of the arrangements; and
- have undertaken counselling to consider the social and psychosocial significance for the person born as a result of the arrangements and for themselves.

As previously noted, the Committee's recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee's recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

RECOMMENDATION 13: SUPPORT FOR THE IMPLEMENTATION OF NEW STANDARDS

The committee recommends to the Minister for Health that Queensland Health support the implementation of enhanced standards for altruistic surrogacy in the ART services by ensuring the agency:

- Has relevant policy research expertise in relation to altruistic surrogacy; and
- Supports relevant training and professional development opportunities for infertility counsellors, nurses and clinicians, members of the Surrogacy Review Panel and family law specialists in collaboration with the ANZICA, fertility clinics, the Fertility Society of Australia and other experts.

Response
Subject to Government's further consideration of the issues raised in recommendation 12.

Comment
The Queensland Government acknowledges the need to ensure that developments in relation to altruistic surrogacy are evidence based and that policy expertise is developed.

In relation to training and professional development opportunities, private clinics offering Assisted Reproductive Technology services are responsible for ensuring that their staff are adequately trained and have access to development opportunities.

In addition, as a condition of accreditation, Assisted Reproductive Technology clinics must comply with the National Health and Medical Research Council’s Ethical Guidelines on the use of Assisted Reproductive Technology in Clinical Practice and Research 2007, which require clinics to run ongoing training programs for clinicians and other staff involved in the Assisted Reproductive Technology procedures used, and also undertake regular quality assurance activities.

As previously noted, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

**RECOMMENDATION 14: MONITORING, EVALUATION AND RESEARCH**

The committee recommends that the Queensland Government:

- Develops an annual data collection system for ART services to monitor demand for and the extent of service provision for altruistic surrogacy, the nature of surrogacy arrangements and service outcomes;
- Explores possibilities for ongoing research on outcomes for children and parties and their ongoing support needs in consultation with other jurisdictions, industry and professional bodies and existing researchers; and
- Evaluates the effectiveness of ART standards for altruistic surrogacy and the quality of client outcomes for people pursuing altruistic surrogacy through ART in consultation with stakeholders. This evaluation should occur two years after the implementation of the new standards.

**Response**

Subject to Government’s further consideration of the issues raised in recommendation 12.

**Comment**

Refer to the Government’s response to recommendation 12

**RECOMMENDATION 15: PARLIAMENTARY REVIEW**

The committee recommends that the Queensland Parliament ensures that, following its release, the report from the evaluation outlined in recommendation 14 is reviewed by a parliamentary committee.

**Response**
Subject to Government’s further consideration of the issues raised in recommendation 12.

**Comment**
Refer to the Government’s response to recommendation 12

**RECOMMENDATION 16: CRITERIA FOR INTENDING PARENTS AND BIRTH MOTHERS**
The committee recommends to the Minister for Health that additional standards be developed under the Private Health Facilities Act 1999 to include criteria for intending parents and birth mothers seeking assistance from ART. The committee proposes:

- The intending parents and the birth mother and her partner have the capacity to enter an arrangement; have participated in independent psychosocial and medical assessment; and have obtained separate legal advice from a qualified lawyer;
- Intending parents demonstrate a need for surrogacy (due to medical infertility or an inability to carry a child or identified health risk) and at least one intending parent is an Australian resident; and
- The proposed pregnancy poses no significant health risk to the birth mother and she has experienced a previous successful pregnancy.

**Response**
Requires further consideration

**Comment**
The Government notes the matters addressed in the recommendation would impose requirements on parties seeking to embark on an altruistic surrogacy arrangement which do not apply for other persons using Assisted Reproductive Technology services or for persons becoming parents by natural conception.

The Government acknowledges that there are particular issues arising in an altruistic surrogacy arrangement that do not occur in other conceptions, that may make it desirable for the parties to undergo counselling and to obtain separate legal advice. The Government further notes, as noted in response to recommendation 12, that the National Health and Medical Research Council’s *Ethical Guidelines on the use of Assisted Reproductive Technology in Clinical Practice and Research 2007* address the responsibilities of Assisted Reproductive Technology clinics in relation to these matters.

As previously noted, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

**RECOMMENDATION 17: RIGHTS OF BIRTH MOTHERS TO MANAGE THEIR PREGNANCY AND BIRTH**
The committee recommends that the Queensland Government confirms that birth mothers engaged in an altruistic surrogacy arrangement have the same rights to manage their pregnancy and birth as other pregnant women.
Response
Support

Comment
The Government believes that the birth mother in an altruistic surrogacy arrangement must have the same rights and freedoms to manage their health and pregnancy as other pregnant women.

RECOMMENDATION 18: UNENFORCEABILITY OF SURROGACY ARRANGEMENTS
The committee recommends that the Queensland Government ensures altruistic surrogacy arrangements remain unenforceable under State law.

Response
Support

Comment
It is noted that the Committee received submissions for and against the enforceability of altruistic surrogacy arrangements. Those for enforceability saw that it provided certainty for the intending parents and the child. Those against wanted to protect the birth mother from forced relinquishment of the child.

The Government considers that the birth mother is a vulnerable party in a surrogacy arrangement and that she should be protected from being forced to relinquish her child.

RECOMMENDATION 19: MECHANISM FOR TRANSFER OF LEGAL PARENTAGE SPECIFIC TO ALTRUISTIC SURROGACY
The committee recommends to the Queensland Government that it:
- Provides for the transfer of legal parentage for altruistic surrogacy under the Surrogate Parenthood Act 1988, the Status of Children Act 1978 or other suitable Act with the following conditions:
  - The arrangement falls within the proposed legislative definition of acceptable altruistic surrogacy arrangements (i.e. it is non-commercial, made pre-conception and parties have reached legal adulthood);
  - Intending parents demonstrate a need for surrogacy based on advice from the Surrogacy Review Panel or a medical specialist or, in the case of traditional Torres Strait Islander ‘adoptions’, customary practice is verified using a similar process to that used in the Family Law Court;
  - The parties meet informed consent requirements including:
    - The birth parent/s consent to the transfer of legal parentage;
    - The child is resident with the intending parents;
    - Birth parents and intending parents have received separate legal advice from a qualified lawyer; and
    - All parties have undertaken post-birth counselling as evidenced by a report from an ANZICA counsellor or a suitably qualified psychologist, social worker or psychiatrist focusing on quality of informed consent, child’s right to information and ongoing communication between the parties;
  - At least one of the intending parents is an Australian resident;
- The approval of transfer is made no sooner than four weeks after birth and an application for transfer is made no later than six months after birth; and
- The transfer is considered in the best interests of the child;
- Provides for the transfer of legal parentage for any existing altruistic surrogacy cases which fall outside the six month criteria for a two year period following the decriminalisation of altruistic surrogacy providing they meet all of the other conditions detailed above; and
- Ensures that applications for the transfer of legal parentage come under the jurisdiction of the Supreme Court.

Response
Support the transfer of legal parentage.

Comment
The Government acknowledges that it is in the best interests of a child to have certainty about their legal parentage and the Government will develop a mechanism to transfer legal parentage from the birth mother to the intending parents in altruistic surrogacy arrangements.

As previously noted, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework for transferring legal parentage will be informed by the Committee’s recommendations together with the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

**RECOMMENDATION 20: LEGAL PROTECTION FOR CHILDREN BORN OF ALTRUISTIC SURROGACY ARRANGEMENTS WITH SAME-SEX PARENTS**
The committee notes the broader issue of recognition of same-sex parents and recommends to the Queensland Government that it conduct a review of the legal status for children being cared for by same-sex parents with particular reference to the operation of the Status of Children Act 1978.

Response
Support

Comment
As the Committee noted, the issue of same-sex parents has wider implications than surrogacy alone. It relates to issues of the legal status of all children being cared for by same-sex parents.

The Government will give consideration to the appropriate mechanism to review the legal status for children being cared for by same-sex parents.

**RECOMMENDATION 21: BIRTH CERTIFICATES**
The committee recommends that the Queensland Government:
Provides for the re-registration of births after approval of the transfer of legal parentage in altruistic surrogacy cases with the issue of a new birth certificate recording the names of intending parents as the child’s legal parents;

Ensures that when children born of altruistic surrogacy with a re-registered birth certificate turn 18 years they can access their original birth certificates; and

Engages stakeholders including children born of altruistic surrogacy and/or ART and adoptees in considering other options to support children’s identity rights including:

- The production of a public birth certificate outlining legal parentage and a private birth certificate detailing genetic relationships and type of surrogacy (i.e. gestational or traditional); or
- The use of annotations on birth certificates to alert people to the existence of other information held elsewhere.

Response
Support in principle

Comment
The Government acknowledges that registration or re-registration of a child’s birth is an important matter and has implications for children born of altruistic surrogacy arrangements, for birth parents and for intending parents. They include the advantage of having an amended birth certificate that avoids any confusion or embarrassment that may otherwise arise for the child from having a birth certificate that names another person or persons as their parents.

The Government also acknowledges that there may be circumstances in which it is appropriate for children born of an altruistic surrogacy arrangement to be able to access their original birth certificate.

As previously noted, the Committee’s recommendations regarding the framework for regulation of altruistic surrogacy raise complex policy issues for Government which require further consideration as Government develops a framework to support the decriminalisation of altruistic surrogacy and transfer of legal parentage.

Development of the final framework will be influenced by the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

RECOMMENDATION 22: REGISTER OF GENETIC INFORMATION
The committee recommends that the Queensland Government:

- Develops a central register to protect information on a child’s genetic parentage and circumstances of birth in relation to altruistic surrogacy, having regard for the possible benefits of such a service for other children born of donor gametes;

- Considers the relative merits of the placement of the register, having regard to the possible synergies with ART regulation, within Queensland Health or with birth registration within the Register of Births, Deaths and Marriages; and

- Supports the development of a national best practice approach to the operation of registers and birth certificates.
Response
Requires further consideration

Comment
The Government supports, in principle, the protection of information about the genetic parentage and birth of children born of altruistic surrogacy so that information can be available to the children at an appropriate time. The Government notes the National Health and Medical Research Council’s Ethical Guidelines on the use of Assisted Reproductive Technology in Clinical Practice and Research 2007 already impose requirements on Assisted Reproductive Technology clinics in relation to the maintenance and disclosure of information about the genetic parentage of children conceived using Assisted Reproductive Technology procedures. The clinics’ obligations include:

- not using donated gametes unless the donor has consented to the release of their identifying information to the child; and
- providing the child, once they reach 18 years of age, with information about the donor’s medical and family history, identifying information about the donor and the number and sex of persons conceived using gametes from the same donor.

The Government notes that the Standing Committee of Attorneys-General at its April 2009 meeting agreed to the development of a discussion paper (different to the discussion paper referred to in the introduction to the Government response) on a national model for the harmonisation of donor registers in consultation with Health and Community Services Ministers.

The Government will give further consideration to the most appropriate future arrangements for the collection and retention of information about the genetic parentage of children born of an altruistic surrogacy arrangement having regard to the Committee’s recommendations, the results of consultation on a proposed model and the deliberations of the Standing Committee of Attorneys-General on a national model.

RECOMMENDATION 23: ONGOING SUPPORT TO TELL FOR INTENDING PARENTS
The committee recommends that the Queensland Government develops a strategy to:

- Support parents of children born of altruistic surrogacy or gamete donation of all ages to ‘tell’ them about their genetic parentage and circumstances of birth;
- Promote the role of the register as proposed in Recommendation 22 and provide easy access to a child’s information; and
- Facilitate the exchange of information between parties.

Response
Qualified support

Comment
The Government believes it is a right and in the best interest of every child to know about their genetic parentage and the circumstances of their birth at an early age.

Therefore, Government will provide support to parents through the development of guidelines. These guidelines will assist parents in telling their children about their genetic parentage and circumstances of birth.
The Government's comment about the role of a register of genetic information is provided in the response to Recommendation 22 above.

**RECOMMENDATION 24: ADVOCATING FOR MEDICARE FUNDING**
The committee recommends that the Queensland Government advocates the Australian Government to provide Medicare funding for altruistic surrogacy.

**Response**
Refer to the Federal Government.

**Comment**
The issue of Medicare funding for altruistic surrogacy is a matter for the Federal Government. The Queensland Government will bring the Committee's recommendation to the attention of the Federal Government.

**RECOMMENDATION 25: DEVELOPING OPTIONS FOR RECOGNISING TRADITIONAL TORRES STRAIT ISLANDER 'ADOPTIONS'**
The committee recommends that, in developing options for the recognition of traditional Torres Strait Islander 'adoptions', the Queensland Government:

- Considers options in consultation with the Torres Strait Islander community, having an appreciation of parenting roles, extended family and child rearing practices in Torres Strait Islander culture;
- Considers options which protect the existing legal right of the birth mother/parents not to relinquish the child and promote the rights of the child to information on his/her genetic parentage;
- Considers the relevance of the model proposed for transfer of legal parentage in altruistic surrogacy in the wider community along with lessons from the operation of the Family Law Court Kupai Omasker parenting orders;
- Ensures that the model is accessible to Torres Strait Islanders throughout the State; and
- Develops a culturally appropriate community education program to support the implementation of such a provision.

**Response**
Issues are noted.

**Comment**
Refer to the comment under recommendation 6.

**RECOMMENDATION 26: TELLING AND TRADITIONAL ADOPTION PRACTICE**
The committee recommends that the Queensland Government provides an opportunity for further dialogue with the Torres Strait Islander community on the issues of telling and traditional 'adoption' practice and a child's right to information. This dialogue should offer the opportunity to fully explain the evidence base for the Department of Child Safety's current policy around telling. It should also encourage and support community based research and engagement initiatives which seek to foster discussion within the community and with the Government on the issue.
Response
Issues are noted.

Comment
Refer to the comment under recommendation 6.