



# Surrogacy in Australia and New Zealand

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This statement has been developed and reviewed by the Women's Health Committee and approved by the RANZCOG Board and Council.

A list of Women's Health Committee Members can be found in [Appendix A](#).

Disclosure statements have been received from all members of this committee.

**Disclaimer** This information is intended to provide general advice to practitioners. This information should not be relied on as a substitute for proper assessment with respect to the particular circumstances of each case and the needs of any patient. This document reflects emerging clinical and scientific advances as of the date issued and is subject to change. The document has been prepared having regard to general circumstances.

**First endorsed by RANZCOG: July 2011**

**Current: March 2021**

**Review due: March 2026**

**Background:** This statement was first developed by Women's Health Committee in July 2011 and most recently reviewed in November 2020.

**Funding:** The development and review of this statement was funded by RANZCOG.

1. Surrogacy. The first surrogate pregnancy following IVF conception was reported in the USA in 1985.<sup>1</sup> Since then, many countries around the world have allowed surrogacy while others have not.
2. Gestational surrogacy. This involves the surrogate acting as a “gestational carrier”. Embryos are created by in vitro fertilisation (IVF) techniques using the sperm and oocytes of the intended parents or donors and the resulting embryos are transferred to the uterus of the surrogate. The pregnancy outcome for babies has been comparable or better than standard IVF pregnancies.<sup>2-5</sup> Follow up of the experience of the commissioning parents<sup>6</sup>, and surrogate mothers<sup>7,8</sup> has been generally favourable. There is limited reported long term follow up of the surrogate mothers and even less of babies born to date.<sup>9-11</sup>
3. Legislation regarding surrogacy varies across jurisdictions. Each State in Australia, the A.C.T and New Zealand have their own laws. There is no legislation regulating surrogacy in the Northern Territory. It is essential that practitioners are aware of the legislation that applies in the jurisdiction in which they practice. Uniformity and clarity of legislation would benefit both health practitioners and the women for whom they care.

While altruistic surrogacy in general is allowed and “commercial” surrogacy is not, the regulation of this practice varies across jurisdictions and in some jurisdictions regulatory approval is required.

4. Surrogacy may allow people who are otherwise unable to conceive or carry a child to realise their desire to become parents. People for whom it may be appropriate include:
  - Women for whom the uterus is the cause of their infertility or inability to carry a pregnancy (e.g. previous hysterectomy, Asherman’s syndrome or müllerian agenesis).
  - Women with certain medical conditions, such as severe heart disease, which might threaten the life of the woman should she become pregnant, provided she is considered fit enough to look after the child after birth and her life expectancy is reasonable.
  - Surrogacy has also been used successfully for women with multiple miscarriage or repeated failure of IVF. Expert opinion should be sought in these circumstances.
  - Same sex male couples.
5. The issues involved in surrogate pregnancy are complex and expert counselling regarding the legal, social/ethical and psychological dimensions will be required for the involved parties.

RANZCOG members may become involved with any or all of the following areas: pre-pregnancy counselling, evaluation of fertility, management of the IVF cycle and the management of the pregnancy and delivery.

Pre-pregnancy counselling of the surrogate should occur as per RANZCOG guidelines (see link below). In particular, the surrogate would need advice regarding lifestyle and medical issues which could affect the pregnancy outcome, and medical risks to which she will be exposed by the pregnancy, so that she may give informed consent to participate. The usual treatment and professional obligations will also apply, including informed consent of all parties.

6. Those establishing a surrogacy service would be prudent to consider protocols of management used at centres which have established surrogacy programs<sup>12-14</sup> with regard to protocols of management - medically, legally, and psychologically before, during and after a surrogate pregnancy. The status of approval by an independent ethics committee, and the inclusion of a cooling off period after approval and before proceeding have merit.

## References

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13. Brinsden PR. Gestational surrogacy. *Human reproduction update*. 2003;9(5):483-91.
14. Devine B. An overview of surrogacy in Australia. *O&G magazine*. 2010;12(3):38-9.

## Links to other College statements

Evidence-based medicine, obstetrics and gynaecology (C-Gen 15)

Consent and provision of information to patients in Australia regarding proposed treatment (C-Gen 02a)

Consent and provision of information to patients in New Zealand regarding proposed treatment (C-Gen02b)

Pre-pregnancy Counselling (C-Obs 3a)

Routine Antenatal Assessment in the absence of pregnancy complications (C-Obs 03b)

## Patient information

A range of RANZCOG Patient Information Pamphlets can be ordered via <https://www.ranzcog.edu.au/Womens-Health/Patient-Information-Guides/Patient-Information-Pamphlets>

## Appendices

### Appendix A Women's Health Committee Membership

Name	Position on Committee
Professor Yee Leung	Chair and Board Member
Dr Gillian Gibson	Deputy Chair, Gynaecology
Dr Scott White	Deputy Chair, Obstetrics
Associate Professor Ian Pettigrew	Member and EAC Representative
Dr Kristy Milward	Member and Councillor
Dr Will Milford	Member and Councillor
Dr Frank O'Keeffe	Member and Councillor
Professor Sue Walker	Member
Dr Roy Watson	Member and Councillor
Dr Susan Fleming	Member and Councillor
Dr Sue Belgrave	Member and Councillor
Dr Marilyn Clarke	ATSI Representative
Associate Professor Kirsten Black	Member
Dr Thangeswaran Rudra	Member
Dr Nisha Khot	Member and SIMG Representative
Dr Judith Gardiner	Diplomate Representative
Dr Angela Brown	Midwifery Representative, Australia
Ms Adrienne Priday	Midwifery Representative, New Zealand
Ms Ann Jorgensen	Community Representative
Dr Rebecca Mackenzie-Proctor	Trainee Representative
Dr Leigh Duncan	Maori Representative
Prof Caroline De Costa	Co-opted member (ANZJOG member)
Dr Christine Sammartino	Observer

## Appendix B Overview of the development and review process for this statement

### *i. Steps in developing and updating this statement*

This statement was originally developed in July 2011 and was most recently reviewed in February 2021. The Women's Health Committee carried out the following steps in reviewing this statement:

- Declarations of interest were sought from all members prior to reviewing this statement.
- Structured clinical questions were developed and agreed upon.
- An updated literature search to answer the clinical questions was undertaken.
- At the February 2021 teleconference committee meeting, the existing consensus-based recommendations were reviewed and updated (where appropriate) based on the available body of evidence and clinical expertise.

### *ii. Declaration of interest process and management*

Declaring interests is essential in order to prevent any potential conflict between the private interests of members, and their duties as part of the Women's Health Committee.

A declaration of interest form specific to guidelines and statements was developed by RANZCOG and approved by the RANZCOG Board in September 2012. The Women's Health Committee members were required to declare their relevant interests in writing on this form prior to participating in the review of this statement.

Members were required to update their information as soon as they become aware of any changes to their interests and there was also a standing agenda item at each meeting where declarations of interest were called for and recorded as part of the meeting minutes.

There were no significant real or perceived conflicts of interest that required management during the process of updating this statement.

## Appendix C Full Disclaimer

### Purpose

This Guideline has been developed to provide general advice to practitioners about women's health issues concerning Surrogacy in Australia and New Zealand and should not be relied on as a substitute for proper assessment with respect to the particular circumstances of each case and the needs of any person. It is the responsibility of each practitioner to have regard to the particular circumstances of each case.

### Quality of information

The information available in the Surrogacy in Australia and New Zealand is intended as a guide and provided for information purposes only. The information is based on the Australian and New Zealand context using the best available evidence and information at the time of preparation. While the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) had endeavoured to ensure that information is accurate and current at the time of preparation, it takes no responsibility for matters arising from changed circumstances or information or material that may have become subsequently available. The use of this information is entirely at your own risk and responsibility.

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