Speech By

# Ros Bates

## MEMBER FOR MUDGEERABA

Record of Proceedings, 10 September 2024

## ASSISTED REPRODUCTIVE TECHNOLOGY BILL

**Ms BATES** (Mudgeeraba—LNP) (11.37 am): Today I rise to make my contribution on the Assisted Reproductive Technology Bill 2024. At the very outset, I acknowledge that this bill covers some ground that is complex and sensitive for many people. By their very nature, assisted reproductive technologies are just that: complex and sensitive. To be frank, these technologies are quite an incredible scientific and medical feat that have given many Queenslanders the very special and very great privilege of being a parent.

Assisted reproductive technology refers to treatments or procedures that address fertility. The most well known and most common of these treatments is in-vitro fertilisation, widely known as IVF. Research from the University of New South Wales National Perinatal Epidemiology and Statistics Unit, published last year, indicates that one in every 18 babies born in Australia is conceived through IVF. This highlights that many Queenslanders will rely on or know someone who has used assisted reproductive technology to start or grow their family.

Not just IVF but also these technologies more broadly are continuing to play a significant role in the journey of many Queensland families. I am cognisant that, even with these quite incredible technologies at our disposal, some couples are still not able to have children despite it being their every wish. Despite many cycles of treatment and the hope that comes with that, for whatever reason things just do not work out for some couples. That will often come at not just a great financial expense but also a great emotional one. That emotional toll and that heartache may be felt for many years. I think it is important that we all take a moment to consider those people today. I am sure many of us will count couples in that circumstance as family and friends.

This legislation will bring Queensland into line with the rest of the country, which we as the opposition see as a good thing. Unlike most other Australian jurisdictions, there is no state-based legislation that regulates the provision of assisted reproductive technology services in Queensland. This has resulted in assistive reproductive technology providers in Queensland being effectively self-governed.

We on this side of the House have heard the calls of those with very personal stories about some of the failings in the industry in years gone by. I myself have met with some of them, and I do commend and acknowledge those who have spoken up about their concerns. Similarly, we on this side also understand the industry is broadly supportive of being regulated. With those two things in mind, the LNP will not be opposing this bill today.

I think many would agree that, since the early days of these procedures being first performed in Queensland, many of the providers in the space have come a long way. The business operators and the clinicians who staff these services are, on the whole, dedicated and professional. Of course, that does not mean that things have always been perfect. In fact, in some cases it appears it has been far from perfect and that has led to some difficult personal circumstances for some Queenslanders. Hearing

stories of donor mix-ups or examples of a donor sperm sample being used dozens of times over is frankly disturbing and it is not good enough. There are members of our community who have to live with these consequences. We on this side will certainly not stand in the way of what is important legislation that will bring Queensland into line with the rest of the country.

The LNP did point to the fact that Queensland lagged behind other jurisdictions when these issues were being raised publicly and that it was important that the necessary safeguards were put in place. I do acknowledge that, in this bill, the government does seek to do that by establishing a state-based framework to regulate ART services as well as a donor conception information register. Two prior bodies of work have led to the formulation of the legislation—in 2022, the Queensland parliament's Legal Affairs and Safety Committee reported on its inquiry into matters relating to donor conception and, in 2024, the Health Ombudsman completed an investigation of ART providers in Queensland.

I do note that the Health Ombudsman had only delivered interim findings at the time the minister introduced the legislation, though the final report has since been completed. The Health Ombudsman noted there was a compelling case for the proposed legislation which we are debating today to strengthen the safeguards for consumers, donors and Queenslanders who are donor conceived. Again, having carefully contemplated these findings, it is another important reason why the LNP will not oppose the bill.

I will turn to the particulars of the bill now. I am conscious that the government has granted only a very brief period of time to debate this very important legislation—barely two hours—so I will keep my contribution brief so as to allow as many of my colleagues the opportunity to have their say. I do want to touch on some key points.

In relation to the establishment of a regulatory framework, the opposition is supportive of the provisions that introduce a licensing scheme, meaning ART technology providers will be required to obtain a licence to operate in Queensland with it now being on offence to operate without one. Similarly, we are broadly supportive of the provisions around providers supporting their clients through information and counselling services based on the complexity of the procedure. As I said earlier, this is a complex and sensitive area of medicine so having these types of support services available is important. Of course, most good operators have services like these, or a version of them, already embedded into their practice.

There are also new consent and record keeping provisions which the opposition is largely supportive of. I do want to talk to the provisions of the bill that deal with the retrieval and use of gametes and embryos a little more. The LNP is completely supportive of the prohibition on the use of gametes from close family members as well as the prohibition on the use of assisted reproductive technology for non-medical sex selection. We will also support limiting the number of donor-related families who can be created to 10, restricting the number of families who may use a particular gamete donor. That will hopefully avoid the disturbing circumstances that we have heard of previously and will no doubt hear more about throughout the debate.

I do note that there are some stakeholder concerns about the definition of 'family' under this provision and that these restrictions may impact some sections of the community more than others—for example, when someone may have found a new spouse or a partner. I will leave it to the minister to clarify those concerns.

Above all, I want to point out the bill's provisions that propose restrictions on the use of gametes and embryos when the gamete provider has died or when 15 years has passed since the donation was made. What is being proposed in relation to a deceased donor is entirely reasonable: however, the blanket 15-year timeframe which would see those samples rendered useless after reaching that milestone, even if the donor is still alive, may deliver some unintended consequences. The committee heard that imposing such a timeframe may exacerbate an already worrying shortage of donated samples that the entire industry is grappling with. It is worth noting that donating human tissue in Australia, including gametes, can only be done altruistically. Destroying what are otherwise healthy samples may do a disservice only to the people who will ultimately need to rely on them.

For instance, let's say that a donor's sample has only been used twice across a 15-year time span. Even if those samples are still deemed to be viable, they will still be destroyed once that deadline comes up. Even if another family wished to use that sample at some point in the future, they would not be able to. I am concerned about this provision mainly because of the potential to worsen an already limited field of donated gametes. It is then the families who rely on a donation that will be impacted because there are too few donors. I do hope the government has weighed up this potential impact and the very real possibility for unintended consequences to arise from this proposed restriction.

I will move now to the other main component of the bill, which is the provisions around the Donor Conception Information Register. Providers will be required to lodge historical information to the register within six months of the commencement of the relevant provisions. These provisions are retrospective, meaning providers will be required to provide relevant historical information to the registrar even if the person whom the information is about did not consent to that disclosure or if laws or guidelines in force at the time the donation was collected precluded their disclosure.

Some possible scenarios which these provisions could enliven could include: allowing for a donor-conceived person 16 years or older to apply for and access identifying and non-identifying information held on the register about the donor without consent; and allowing for a descendant of a donor-conceived person who is 16 years or older, such as a child or grandchild, to apply for and access the same information that the donor-conceived person can access. There are a number of other scenarios but there is not enough time to go through them.

As with any law brought into this place that involves retrospectivity, I do worry about the potential for unintended consequences. Any member who has been around this place long enough will know the cautionary tales of retrospective legislation changes in years gone by. I really do feel for donors who have acted in good faith and have always been under the impression their decision to donate was effectively anonymous because that will no longer be the case.

I do understand the government's motive and intention behind these changes, and I think they are good motives and good intentions. Being able to understand their own genetic origin is important to a donor-conceived person for a good number of reasons, not least of which so they can have confidence in having a partner in the future to whom they are not closely genetically linked. This is a very real circumstance for many parents of donor-conceived children. Yes, there are good reasons for retrospective changes based on the failings of the past but, again, the impact on the lives of some people is likely to be quite significant as a result and we should all be conscious of that fact.

It is entirely possible, or perhaps even likely, that these changes could be challenged by those who have made donations in the past on the proviso their identity not be disclosed. We will carefully watch how this unfolds. We do not oppose the changes but we sincerely hope the government has judiciously considered the potential ramifications going forward.

The establishment of the register also provides a mechanism for noting a person's status as donor conceived on their birth certificate. Under the proposed changes, the Registrar General will be required to issue an addendum to a birth certificate if a donor-conceived person born in Queensland who is 16 or over requests their birth certificate. The addendum must state that further information about the person's birth is available in a register kept by the registrar. It will then be up to the person concerned to decide whether they wish to request that additional information. Stakeholders have identified there is some concern that the proposed addendum to birth certificates may bring about issues related to privacy, family dynamics and the rights of non-biological parents. Again, I think those are entirely justified concerns.

There are also some stakeholders who have suggested that the age one is able to access these records should be 18 years rather than 16. It would be good to understand the government's rationale as to why 16 was the age chosen. I believe some of the other jurisdictions in Australia follow the 18-year milestone.

I must say that some from within the sector have expressed their disappointment in the consultation undertaken as part of the legislative changes. They have said that the process was more one of being spoken at rather than being listened to or of genuine consultation. I acknowledge that there has been previous work done in this space—the OHO inquiry and the previous committee inquiry. That some stakeholders felt this process was rushed was disappointing to hear, particularly when I feel there was a real openness by the sector to embrace new regulations and to try to get it right.

Sadly, we are seeing rushing of a different kind today. The government is allowing this House barely two hours to debate this legislation. It is important legislation and it is very complex, too. I expect that many members from across the chamber are likely to have personal experiences which have shaped their views. That the government should choose to truncate the passage of the bill through the House in the manner it is doing is deeply disappointing, particularly given the sensitivities and complexities around this area of government policy.

I want to round out my contribution by saying thank you to those who have advocated for change in this field—along with those who are willing to change their practices for the better. I think it is very unlikely we will see any sort of marked slowdown in the use of assisted reproductive technologies across Queensland in the years ahead so ensuring there is a framework to protect those who rely on this technology is very important.

The opposition will not stand in the way of this legislation. I sincerely hope the government has carefully considered the potential for unintended consequences which may arise from this bill, because this really impacts the lives of people in a significant way.