SUBMISSION TO THE AUSTRALIAN LAW REFORM COMMISSION – REVIEW OF AUSTRALIA'S SURROGACY LAWS

[redacted]

9th July 2025

The Commissioner
Australian Law Reform Commission
PO Box 209
Flinders Lane
Victoria 8009
Email: surrogacy@alrc.gov.au

Dear Commissioner,

SUBMISSION TO THE AUSTRALIAN LAW REFORM COMMISSION – REVIEW OF AUSTRALIA'S SURROGACY LAWS

I am making this submission to contribute to the Australian Law Reform Commission's review of Australia's surrogacy laws. I am an intended parent and we have recently pursed our first (failed) surrogacy attempt in Australia following 22 rounds of unsuccessful IVF.

I have read the Issues Paper and have responded to the questions posed in the paper below.

I seek that my submission be published but de-identified

1. If you or someone close to you has had personal experience of surrogacy, please describe:

We had 22 failed rounds of IVF through 2 different providers. We have unexplained fertility and tried everything offered to us. They cannot find the reason why we cant get pregnant naturally or through IVF – The embryos just wont stick in my tummy.

We were very reluctant to pursue any further options – but with no explanations and continued failed attempts we had no choice.

We didn't feel like we could ask anyone to be our surrogate. We attended online seminars and webinars and were totally put off by the experience. It seemed very cult-like and a huge process to find a surrogate who could help us. We investigated overseas surrogacy but were afraid of Australian Laws if we went for commercial surrogacy overseas.

I met with a lady who was a surrogate many years ago and she suggested looking through our existing networks via social media. We have been on a very private journey and did not want to share our path in life so publicly so I sent a message to a few girlfriends – not to ask for surrogacy – but to see if they might be able to anonymously share our request. This resulted in the most amazing offer from a friend who had been considering offering but

didn't know how to approach the subject. She had already spoken to the obstetrician and some other friends.

As very proactive people, our journey form here was 9 months of counselling and appointments and covering ground we had already lived. Asking so much from them was not a pleasant experience for us – and we hadn't even got to transfer.

The surrogacy process was extremely frustrating, and we felt like we were constantly waiting on other people to provide information or correcting incorrect information on documents as we had to explain our journey to yet another group of people.

We are forever grateful for our surrogates – for everything they have given up and offered and wish it could have been a better experience for them. Our transfer didn't work out last week – and we will go again, and are happy to privately share any experiences we have had to make this process easier for people in the future.

2. What reform principles should guide this Inquiry?

The journey of the people involved and the current efficiency of this process with consideration of prior journeys and what it has taken people to get to the start of the surrogacy journey.

3. What information about the circumstances of their birth do you think children born through surrogacy should have access to? How should this be provided / facilitated?

I think that a surrogacy journey is always a considered process. People that enter this journey and even more so the people who offer up this gift have to jump through so many hoops to get there, and therefore these conversations must have been discussed prior to the birth of the child. It is such a unique journey that creates a bond between the parties that I believe the wishes of all parties must be considered.

As a young child the wishes of all parties should be respected and the birth parents relationship with the child may be different in each instance. As each journey is unique, I believe it should be up to each IP/Surrogate group to disclose as much as they wish, much as in the same way as if there was an absent mother or father in the childs life. In this instance it is up to the remaining parent to share as much as they wish with the child and I don't think surrogacy should be any different.

4. What do you think are the main barriers that prevent people from entering into surrogacy arrangements in Australia, and how could these be overcome?

Cost – There are no rebates for surrogacy making it unattainable and placing additional financial pressure on people that may have already had a costly IVF experience. Unexplained fertility is the same medical condition regardless of who's womb the embryo is placed into.

The lack of access to surrogates – Unless you know someone who is willing to be a surrogate the process is near on impossible. Asking was for us very daunting, and we just got lucky. Without an offer from a friend, we would not be able to pursue this process. Our research into surrogates absolutely put us off pursuing this option.

The stigma surrounding surrogacy – There is very little factual information about the process. It reads as complicated and like something that has to be very public.

A long and lengthy process to get to transfer stage – The waiting process inbetween each stage is painful. Access to appointments is not easy – there are not enough people to facilitate appointment requests and you are asking people to leave for meetings during work hours as this is the only options that are provided.

5. Should there be eligibility criteria for surrogacy? If so, what should those requirements be?

Medical reasons or same sex couples only

6. Are there any current requirements which should be changed or removed?

Mandatory counselling with an IVF provided counselor

This was a waste of everyone's time. I had been seeing a counselor who knew my IVF journey from the beginning and understood much more where we were at what it had taken to reach this point. Having to relay this to another counsellor over 6 sessions was traumatic and she didn't understand us in the way my counselor did. I understand the need for counselling and think it is important – but it would have been more beneficial for my surrogate and her partner to see someone who understood us and where we have come from. Choosing my own counselor would have made the process much easier

PRP

An extremely nerve-wracking experience that we did not wish to put our Surrogates through. We had to again go over our journey with new people that again did not have the insight into our journey. This just involved covering ground that had been previously covered to another group of people.

This process felt like people were judging your suitability to be a parent which is demoralizing and does not make you feel good.

7. Should surrogacy agreements be enforceable?

Yes – but I feel like this is not a big thing. By the time you get to this point you are a true team. The journey to this point is so tough.

8. What process requirements should be in place for surrogacy arrangements?

Counselling (with your own counselor)

Medical reasons for why you need to enter the agreement

A surrogacy agreement

9. What are the gaps in professional services for surrogacy in Australia?

Having enough people to service the requirements

Transitioning from IVF to surrogacy. Having a constant person to assist in this transition. It is the same journey – but it is treated as 2 different items.

An understanding of the frustration of having to go through the process and as an IP, the awful feeling of asking the surrogate to attend multiple appointments and scans etc. when they have already offered you so much.

10. What is the best way for professional services for surrogacy to operate?

With compassion and understanding of the emotional journey and well-staffed.

As a private company within strict governing guidelines

11. What entitlements, if any, should be available to surrogates and intended parents?

Medicare rebates for medically required processes

12. How could the process for reimbursing surrogates for reasonable expenses be improved?

The way this is managed currently is through the parties involved. I think it is important to remember that everyone is consenting adults to the process and the IPs need to be in control a little to feel like they can support their surrogates as they wish.

13. Do you support a) *compensated* surrogacy and/or b) '*commercial*' surrogacy? You might want to consider whether you agree with how we have described compensated and 'commercial' surrogacy?

Compensated yes. Commercial no

Even in compensated surrogacy there must be a path of altruistic or supported surrogacy for IP with medical conditions

14. If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented?

The $$ must be regulated.

Rebates should be provided for medically required surrogacy so that people with genuine medical conditions are not driven out of the system.

15. How could the process for intended parents to become the legal parents of children born through surrogacy be improved?

The paperwork should be able to be pre-prepared and lodged so that it can be immediately implemented following birth

16. What is the best way to approach differences in surrogacy regulation between or within jurisdictions?

A single process for the entirety of Australia

17. Is it appropriate for surrogacy arrangements to be subject to oversight? If so, what is the best approach?

Absolutely.

A single governing body should oversee all surrogacy processes – without adding additional steps or time to the process. They should monitor the providers and not the people on the journey.

18. Should the law have a role in discouraging or prohibiting certain forms of surrogacy?

No. We are all adults and make choices in life.

More assistance / rebates should be provided for medically required surrogacy

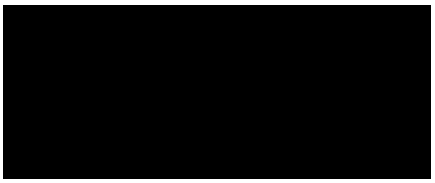
19. Do you think there is a need to improve awareness and understanding of surrogacy laws, policies, and practices?

I think when you enter this process you can make yourself aware of current practices – however these practices need to change!

20. Are there any important issues with regulating surrogacy that we have not identified in the Issues Paper?

Talking to people who have been through the process. This is a highly charged emotional process that has lifelong implications. Things that may seem good on paper may not be practical.

We are talking about people's lives and the shape of their families. This includes the ability to read your child a bedtime story, to see their first day at school, to be able to see them compete in sport, to get married and to have grandchildren. The though of not having these experiences is gut wrenching but is a reality for people like me without the option of surrogacy. These are the stakes we are talking about.

Thank you for considering my submission.

Yours Faithfully,