[redacted]

12/06/2025

The Commissioner
Australian Law Reform Commission
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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 3 time surrogate, and also a director of [redacted]

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:

   What parts of your experience were positive?
   I have been an altruistic surrogate in Australia three times—once as a traditional surrogate (using my own eggs) and twice as a gestational surrogate. Across these journeys, there were moments of extraordinary joy and deep human connection. My first surrogacy in 2015 remains one of the most meaningful experiences of my life. The intended parents, [redacted], had suffered devastating losses, and the opportunity to help them welcome a child, [redacted], into their lives was profoundly fulfilling. A decade later, we still remain in contact and celebrate important milestones together.

When the journey is based on mutual respect, transparency, and shared commitment, altruistic surrogacy can be a beautiful collaboration. It is deeply rewarding to know that you've helped build a family, especially when that support and appreciation continues after the birth.

What parts of your experience were negative?
Not all of my experiences have been positive. My third surrogacy journey was extremely traumatic. I experienced serious health issues, including low iron requiring transfusion, perinatal anxiety and depression, and significant financial strain. Despite medical advice and my own wellbeing being at risk, the intended parents refused support on several occasions, citing costs. At times, I felt like I was begging for the bare minimum.

After the birth, not only did support disappear, but agreements were disregarded. I was left to cover costs the parents had previously committed to, including postnatal care, mental health support, and legal bills. They later sued me, attempted to assign me child support, and refused to remove my name from the child's birth certificate. Five years on, despite having no contact with the child or the parents, my husband and I are still listed as legal parents. We incurred over $17,000 in legal fees, and it continues to affect our lives emotionally and financially.

There is also significant variation between states. For example, Victoria requires a Patient Review Panel, and does not allow intended parents to freeze embryos while waiting for a surrogate, while Queensland is comparatively more flexible. Medicare rebates are inconsistently applied and often disadvantage those with the greatest medical need. The system is patchy and difficult to navigate, especially when the surrogate and intended parents live in different jurisdictions.

What could be improved and how?
Australia's surrogacy system is in urgent need of reform. Based on my lived experience, the following improvements are essential:

1. National Uniform Legislation: Currently, there are eight different systems of regulation. A single, national framework would prevent the confusion and inconsistency that now exists. Surrogates and intended parents should not have to navigate conflicting state laws.

2. Legally Binding Agreements: At present, surrogacy agreements are not enforceable. There needs to be a legally binding, government-regulated contract that sets clear expectations, including financial commitments, dispute resolution processes, and post-birth responsibilities.
3. Independent Oversight Body: A neutral, accessible body should oversee surrogacy arrangements, ensure accountability, and support all parties in case of conflict—especially in managing financial disputes or breaches of agreements.
4. Medicare Equity: Intended parents engaging in altruistic surrogacy due to genuine medical need should not be penalised by Medicare's exclusionary policies. Medicare support should be uniformly available regardless of the fertility pathway taken.
5. Surrogate Rights and Support: Surrogates carry the physical, emotional, and psychological burden of pregnancy without adequate recognition. There should be mandated protections around leave, healthcare, and postnatal support (including mental health care), as well as protections for their family members who are also impacted.
6. Insurance and Financial Security: It should be mandatory for intended parents to cover lost wages, medical expenses, counselling, and insurance, with a clearly defined and government-reviewed baseline of acceptable expenses.
7. Education and Emotional Support for All Parties: Intended parents often require support navigating their emotions and anxiety. Mandatory pre-surrogacy and ongoing psychological support for all parties would help mitigate conflict and misunderstandings.
8. Post-Birth Protocols: Hospitals and legal systems need consistent, trauma-informed postnatal care policies. Surrogates should not be left unsupported after delivery, nor burdened by costs or disputes related to the transition of parentage.

Final Reflection:

Altruistic surrogacy has the power to create life-changing outcomes, but only when it is respectful, safe, and supported. Without safeguards, surrogates are left exposed—legally, emotionally, physically, and financially. This needs to change. Those who are willing to carry a child for another family should not be left pleading for basic support or be dragged through the legal system. It's time for a compassionate, ethical, and nationally consistent approach to surrogacy in Australia.

2. What reform principles should guide this Inquiry?

The Inquiry should be guided by a set of clear, ethical, and inclusive principles that protect all parties—most importantly, the children born through surrogacy—and ensure a fair, consistent, and safe framework across Australia. The key reform principles should include:

• Equity of Access: Every individual or couple, regardless of state or territory, gender, sexual orientation, relationship status, or financial means, should have equitable access to surrogacy. The current patchwork of inconsistent state laws and financial discrimination (e.g. differing access to Medicare rebates) creates inequity and confusion. Uniform access to support and services is essential.

• Child Welfare as Central: The wellbeing of the child must be the central consideration in all surrogacy arrangements. This includes ensuring legal certainty around parentage, access to origin and identity information, and emotional stability by supporting the surrogate and intended parents throughout the process and beyond.

• Legal Clarity and National Consistency: There should be one national, legally binding surrogacy framework, rather than eight separate and conflicting systems. All parties should be able to rely on clear, enforceable agreements that remove ambiguity and reduce the likelihood of conflict and legal disputes.

• Reproductive Autonomy: All individuals involved—surrogates, donors, and intended parents—must have the right to make informed choices about their bodies and reproductive roles, free from coercion or undue pressure. The law must respect these choices and uphold bodily autonomy.

• Informed Consent: Surrogacy should only proceed where all parties give fully informed, freely given consent. This means access to independent counselling, legal advice, and medical information before, during, and after the surrogacy journey. Consent should be revisited and reaffirmed at key stages.

• Ethical Oversight and Transparency: There must be ethical, independent oversight of surrogacy arrangements, including transparency around costs, responsibilities, and expectations. This applies to both altruistic and any future models of compensated surrogacy. Oversight mechanisms should ensure accountability, fairness, and the prevention of exploitation.

3. What do you think are the key human rights issues raised by domestic and/or international surrogacy arrangements and how should these be addressed?

   Surrogacy arrangements—both domestic and international—raise significant human rights considerations that must be addressed to protect the dignity, autonomy, and wellbeing of all parties involved. The key human rights issues include:

• The Right of Children to Know Their Genetic and Birth Origins

Every child has a fundamental right to access information about their genetic, gestational, and social origins. This includes knowing the identity of the surrogate and any donors involved. Secrecy around a child's conception can lead to lifelong identity questions and psychological harm.

How this should be addressed:

Establish a national donor and surrogacy register to ensure lifelong access to origin information. Require openness and truthfulness in family formation practices, supported by counselling and education for intended parents.

Ensure birth certificates and parentage records reflect the full story of the child's conception and gestation, including both legal and biological realities.

• The Right of Intended Parents to Form a Family Regardless of Geography or Income

The ability to form a family should not be determined by where someone lives, who they love, or their financial situation. Yet state-based legislation, Medicare inequalities, and high costs create barriers, pushing some Australians toward international surrogacy arrangements where protections may be weaker.

How this should be addressed:

Introduce national, inclusive laws allowing all individuals and couples—regardless of relationship status, gender identity, or sexual orientation—equal access to surrogacy.

Address financial inequities through fair application of Medicare rebates and consistent access to necessary fertility services.

• The Right of Surrogates to Bodily Autonomy and Fair Treatment

Surrogates take on the physical and emotional burden of pregnancy and birth. Their rights to informed consent, personal health decisions, and postnatal wellbeing must be upheld throughout and beyond the surrogacy process.

How this should be addressed:

Create legally enforceable surrogacy agreements that recognise a surrogate's autonomy, ensure adequate support, and provide clear processes for conflict resolution.

Mandate minimum standards for reimbursement, counselling, legal advice, postnatal care, and time off work.

Include protections for mental health and family impacts, recognising that surrogates and their families carry ongoing risks and responsibilities.

Overarching Solution:

a. All of these human rights concerns should be addressed through nationally enforceable standards that ensure:
b. Informed consent at every stage,
c. Transparency in processes and expectations,
d. Access to records for all parties, and
e. Independent oversight to safeguard against exploitation, coercion, or harm.

4. 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?

Children born through surrogacy have a fundamental right to know the truth about their origins. Access to this information is essential for identity, wellbeing, and trust in family relationships. The following information should be available to them:

Children should have access to:

a. Information about the surrogate: Including identifying and non-identifying information, the nature of their relationship, and the surrogate's role in their birth.
b. Information about donors (if applicable): Genetic identity, family medical history, and (at maturity) identifying information about egg, sperm, or embryo donors.
c. Details about the surrogacy arrangement: Including the intended parents' motivation, the reason for surrogacy, key terms of the agreement, and circumstances surrounding the pregnancy and birth.

How this should be facilitated:

a. A national surrogacy and donor conception register should be established, managed independently, and be accessible to children born via surrogacy once they reach maturity.
b. Age-appropriate disclosure guidelines should support parents to share the child's story gradually and openly from a young age, consistent with best practice in donor conception.

c. The register should include mandatory recording of key information at the time of the arrangement—before conception—including medical, legal, and personal details of all parties.

d. Support services such as counselling and education should be available to help families navigate these conversations and ensure that children's rights to truth and identity are respected.

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

   Australia's current surrogacy system presents numerous barriers that prevent both intended parents and potential surrogates from engaging in safe, ethical, and successful arrangements. These include:

   Main Barriers:

   - Inconsistent laws between states and territories
     Each state and territory has different legal requirements, approval processes, and access to services. This patchwork system causes confusion, delays, and inequity—particularly for people whose surrogate or intended parents live in a different jurisdiction.
   - Prohibition of compensation
     The ban on reasonable compensation for surrogates contributes to a shortage of willing surrogates and places an undue financial burden on them. Pregnancy carries health risks and often impacts employment, family life, and mental health, yet surrogates are expected to take this on with little structural support.
   - Lack of professional support and intermediaries
     Most people pursuing surrogacy must navigate the process alone or through informal social media groups. There is a lack of accredited agencies or professionals to facilitate matching, ensure ethical practices, and support all parties through the emotional and legal complexities.
   - Lack of Access to Medicare rebates

     Intended Parents accessing IVF services in Australia should have access to Medicare rebates and services as are those accessing donor conception and IVF options.

   How These Can Be Overcome:

   - Introduce a National Surrogacy Framework
     A uniform, federally legislated system would provide clarity, consistency,

and fairness across Australia. It would allow for standardised agreements, processes, and legal rights regardless of geography.

- Allow regulated, ethical compensation for surrogates
  Enabling reasonable, regulated compensation would respect the surrogate's time, physical burden, and emotional labour—without commercialising the process. It would also remove financial disadvantage as a barrier to becoming a surrogate.
- Establish and accredit professional intermediaries and support services
  Licensed surrogacy agencies, legal experts, counsellors, and care coordinators should be available to assist with matching, counselling, legal navigation, and aftercare. Accreditation would ensure high ethical standards, oversight, and accountability.

As a support service at [redacted], we hear firsthand about the significant barriers that many intended parents and surrogates face when pursuing domestic surrogacy arrangements. These challenges impact different groups in unique ways, creating unequal access and considerable frustration.

Main barriers:

1. Severe shortage of available surrogates, especially regionally:
   In states like Tasmania, it is exceptionally difficult—often nearly impossible—for intended parents to find a local surrogate. The small population size, combined with limited local awareness and support networks, means that many Tasmanian intended parents must look interstate, adding complexity and cost. Similarly, gay men and other LGBTIQA+ individuals in states like Western Australia face disproportionately limited access to surrogates due to smaller communities and social barriers.
2. Legal and regulatory inconsistencies between states:
   Differing laws regarding who can access surrogacy, what types of surrogacy are permitted, and how arrangements must be conducted create confusion and restrict options. For example, some states prohibit commercial arrangements or advertising, limiting the ways intended parents and surrogates can connect safely and legally.
3. Lack of accessible, regulated matching services:
   Many surrogacy matching services lack national regulation and often operate with no requirement for staff qualifications. This results in variable quality and reliability, leaving many intended parents reliant on informal social media groups with no guarantees or protections.
4. Financial barriers:
   Surrogacy can be costly, even in altruistic arrangements, due to legal,

medical, and counselling expenses. People with limited financial resources, including many single parents and lower-income individuals, may find these costs prohibitive.

5. Cultural and linguistic barriers:
   People from culturally and linguistically diverse backgrounds may lack access to culturally sensitive information and support. They might also experience additional stigma or isolation when seeking surrogacy options.

6. How these barriers could be overcome:

   - Developing national, consistent legislation and regulatory frameworks to harmonise access, advertising, and service standards would reduce confusion and open pathways for intended parents and surrogates across states.
   - Expanding and accrediting matching services and intermediaries with clear qualification and ethical standards would improve access and safety, reducing reliance on informal, unregulated networks.
   - Investing in targeted outreach and education programs within regional and marginalized communities, including LGBTIQA+ and CALD populations, to raise awareness and encourage informed participation in surrogacy.
   - Providing financial support or subsidies for counselling, legal advice, and medical costs associated with surrogacy, to reduce financial barriers for disadvantaged individuals and couples.
   - Facilitating interstate collaboration so intended parents can more easily engage surrogates outside their home state where local availability is limited.
   - Offering culturally safe and multilingual support services tailored to the needs of diverse communities.

   As a director at [redacted] we advocate for these reforms to make domestic surrogacy a more accessible, equitable, and supported pathway to parenthood for all Australians, regardless of geography, identity, or financial status.

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

   Yes, there should be eligibility criteria to ensure that surrogacy arrangements are ethical, safe, and supportive for all parties involved—particularly the child.

   Key eligibility requirements should include:

   a. Psychological and medical assessments
      All parties (intended parents and surrogate) should undergo thorough

psychological screening and counselling to assess readiness, expectations, mental health, and informed decision-making. Medical assessments should ensure that the surrogate is physically suitable for pregnancy and fully understands the risks involved.

b. Independent legal representation and support
Each party should have access to independent legal advice to ensure they understand their rights, obligations, and the terms of the agreement. This safeguards informed consent and helps reduce future disputes.

c. Free and informed consent, with no coercion
Surrogacy must be entered into voluntarily, without pressure, coercion, or undue influence. The process should include safeguards to identify and prevent exploitation or manipulation—particularly where there are power imbalances.

Importantly, eligibility criteria should not:

- Discriminate based on relationship status, sexual orientation, gender identity, or geographic location.
- Exclude single people or same-sex couples, provided they meet the same psychological, medical, and legal standards as other intended parents.

Establishing clear, inclusive, and enforceable eligibility standards helps to ensure that all surrogacy arrangements prioritise the welfare of the child while respecting the autonomy and dignity of both surrogates and intended parents.

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

Yes. Several existing requirements within Australia's surrogacy framework are outdated, overly restrictive, or create unnecessary barriers to ethical and supportive arrangements. These include:

Strict prohibition on compensation beyond expenses
The ban on any form of compensation places an unreasonable burden on surrogates, many of whom give up income, face health risks, and experience long-term emotional and physical impacts.
Australia should move toward a regulated compensation model, similar to that in the UK or Canada, where reasonable, capped compensation is allowed—but full commercialisation (as seen in parts of the United States) is avoided. This approach respects the surrogate's time and contribution without commodifying the process.

Delays in legal parentage recognition
Currently, intended parents must wait weeks or months post-birth for parentage to be legally transferred, even when all parties agree and the surrogate has no parental

intent.
These delays:

- Cause emotional stress and legal uncertainty
- Disempower both the surrogate and intended parents
- Disrupt continuity of care for the child

Legal parentage should be transferred automatically or swiftly post-birth, with appropriate pre-birth agreements and safeguards in place.

Prohibitions on advertising
Current bans on advertising for surrogates or intended parents force people into private social media groups, with no oversight or protections. This increases the risk of exploitation, misinformation, and coercion.
Instead of banning all advertising, we should allow ethical, regulated awareness and matching, supported by accredited intermediaries. This would enable transparency and allow surrogates and intended parents to connect safely and fairly.

9. Are there any requirements for a valid surrogacy agreement you think should be added, removed or changed?

Yes. To improve fairness, clarity, and accountability, the following additions should be made to the requirements for a valid surrogacy agreement:

Additions:

Explicit agreement on compensation and dispute resolution mechanisms

Agreements should clearly outline what reasonable expenses or compensation will be covered, and how disputes—especially around unmet expectations—will be resolved. This could include access to an independent intermediary or tribunal that oversees surrogacy agreements.

Defined terms for post-birth contact

Post-birth contact can be a significant source of misunderstanding. Agreements should include clear, mutual expectations around communication, ongoing relationship (if any), and how changes to that arrangement may be navigated—always with the child's best interests in mind.

These additions promote transparency, reduce emotional and legal conflict, and help protect all parties—especially the surrogate and child—from ambiguity or post-birth abandonment of agreed terms.

10. Should surrogacy agreements be enforceable?

Yes—surrogacy agreements should be enforceable to a reasonable and ethical extent, with appropriate safeguards to protect the rights and wellbeing of all parties involved.

Why enforceability matters:

a. Protects all parties
   Enforceable agreements provide clarity and security for both surrogates and intended parents. They help prevent situations where one party changes the terms mid-process or refuses to fulfil their obligations—such as reimbursing reasonable expenses, providing agreed post-birth care, or recognising parental responsibility. This legal certainty reduces conflict and supports a cooperative, respectful relationship.

b. Reduces risk of exploitation
   Without enforceable agreements, surrogates—especially those acting altruistically—can be left vulnerable, reliant solely on goodwill rather than legal protection. This can lead to unfair treatment, emotional distress, or financial hardship, undermining the ethical foundations of surrogacy arrangements.

c. Supports the child's best interests
   Legal clarity in surrogacy agreements reduces instability and uncertainty for the child. When parentage and care arrangements are clearly agreed upon and upheld by law, the child benefits from consistency, security, and a smoother transition into their new family environment.

Essential safeguards:

a. Parental consent to relinquish should remain non-binding until after birth
   To protect the surrogate's rights, the decision to relinquish the child must remain voluntary and non-binding prior to birth. This safeguards the surrogate's ability to change her mind in rare but important circumstances, respecting bodily autonomy and ethical concerns.

b. Other terms should be legally enforceable
   All other aspects of the agreement—such as reimbursement of reasonable

expenses, the intended parents' legal responsibility, post-birth care plans, and dispute resolution mechanisms—should be binding and enforceable to ensure fairness, accountability, and protection.

Enforceability should not override informed consent or the surrogate's autonomy, but it is critical for ensuring fairness and protection for everyone involved—surrogates, intended parents, and most importantly, the child. A balanced legal framework that upholds enforceable agreements with clear safeguards fosters ethical, transparent, and supportive surrogacy practices.

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

Surrogacy arrangements should be underpinned by a consistent, transparent, and ethical national framework that supports informed decision-making and safeguards all parties, especially the child. The following process requirements are essential:

Mandatory Independent Legal Advice
All parties should receive separate, independent legal advice to ensure they fully understand their rights, responsibilities, and the implications of the agreement. This is critical for informed consent and dispute prevention.

Psychological Screening and Counselling
Surrogates and intended parents should undergo pre-surrogacy psychological assessments, as well as ongoing counselling throughout the journey. This helps identify risks, prepares everyone emotionally, and supports mental health throughout the process.

Written Agreement
A legally recognised, written agreement should be completed before any medical procedures occur. It should cover:

- Intentions around parentage
- Financial arrangements
- Medical and birth planning
- Post-birth contact
- Dispute resolution pathways

Ethics or Approval Panel
A neutral body—such as a surrogacy ethics or review panel—should assess the arrangement before treatment begins to ensure that the agreement is fair, all parties are well-supported, and no coercion is present.

Access to a Regulated Intermediary or Agency
Optional but available support from accredited intermediaries (agencies or clinics) can help with matching, communication, logistics, and compliance with legal and medical processes.

Streamlined Parentage Transfer Process
There should be a clear, timely pathway for the legal transfer of parentage after birth, especially when all parties consent and the arrangement meets legal and ethical standards.

These process requirements protect the surrogate's autonomy, the intended parents' parental status, and—most importantly—the rights and welfare of the child. A national, uniform approach would reduce confusion and strengthen trust in surrogacy as a legitimate and compassionate path to parenthood.

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

Australia's current surrogacy framework lacks ethical consistency, national regulation, and effective professional services. Intended parents and surrogates often find themselves unsupported, misinformed, or financially exploited due to significant systemic gaps. These issues expose all parties, especially the child, to risks that could be mitigated through better regulation and professional standards.

Healthcare System Gaps

From personal experience, there are also critical gaps within the health system. Most doctors, nurses, and midwives have little to no training in managing surrogacy births. They often do not understand the relevant state-based laws, which creates confusion, miscommunication, and legal uncertainties during labour, delivery, and postnatal care. This can compromise the quality of care and leave both surrogates and intended parents feeling anxious and unsupported during an already vulnerable time.

For example, in my first surrogacy, the baby's mother was not allowed to breastfeed her own child. We had to fight for this right—educating and advocating alongside counsellors and lawyers so she could bond with her baby during those first critical hours. This was a difficult barrier to overcome for the parents, even with my full consent as the surrogate. Additionally, in each surrogacy birth, I was required to leave the hospital when the baby did. In order for the intended parents to receive postnatal parenting support, I had to remain in an empty hospital room despite having minimal health needs myself—simply to allow the parents the right to stay.

These experiences highlight the pressing need for nationally consistent training, legal clarity, and coordinated professional support to ensure that surrogacy arrangements are managed with dignity, care, and respect for all involved.

Lack of qualified and regulated surrogacy professionals

There is no national accreditation, licensing, or regulatory framework governing surrogacy coordinators and services. Many surrogacy support services are run by individuals without formal qualifications in law, psychology, medicine, or ethics, despite the inherently complex legal, emotional, and medical nature of surrogacy. The absence of mandatory registration or professional oversight means intended parents and surrogates are left to navigate this complex journey often with unqualified guidance, increasing the risk of misinformation, unethical practice, and poor outcomes.

Inconsistent access to counselling and legal advice

Access to independent, high-quality counselling and legal advice varies widely across Australia. Surrogates often rely on legal advice paid for or chosen by intended parents, which creates inequities and potential conflicts of interest. Without guaranteed, independent legal support, surrogates may face significant vulnerabilities. Funds for legal services should be held in intermediary trust accounts or clearly stipulated in surrogacy agreements to ensure surrogates can access necessary legal counsel regardless of the intended parents' circumstances.

Absence of a centralised, regulated matching system

No government-endorsed surrogacy matching service currently exists. Matches mostly occur through informal channels like social media or private agencies that often lack transparency, offer limited success, and charge high fees with no refund guarantees. This creates uncertainty and financial strain for intended parents and limits surrogates' opportunities to connect with suitable matches safely.

Ethical concerns and conflicts of interest

Some services promoting altruistic surrogacy have undisclosed financial links to for-profit overseas surrogacy providers, creating conflicts of interest and potentially encouraging intended parents toward commercial arrangements that contravene Australian law and ethics. Additionally, paid consultants who receive commissions from international clinics frequently fail to disclose these relationships, undermining informed consent and transparency.

The Way Forward: Recommendations for a Regulated National Surrogacy Framework

To ensure safety, fairness, and ethical practice, Australia would benefit from establishing a robust national framework for surrogacy that includes:

a. Licensing and accreditation of surrogacy professionals and services
Introducing mandatory registration, minimum training standards, and licensing for surrogacy coordinators, counsellors, and agencies to ensure professional competence and accountability.

b. Clear standards and protocols for screening, matching, and education
Implementing uniform, transparent criteria for screening all parties, regulated and monitored matching services, and comprehensive education to prepare surrogates and intended parents for all aspects of the surrogacy journey.

c. Independent, high-quality counselling and legal advice
Ensuring all parties have access to confidential, impartial counselling and legal support before, during, and after the arrangement, with funding safeguards such as escrow or trust accounts to guarantee access.

d. Oversight of fee structures and transparent ethical practices
Regulating fees charged by agencies and consultants to prevent exploitation, and requiring full disclosure of any financial interests or commissions to protect informed consent.

e. Mandatory conflict of interest disclosures
Ensuring that all professionals involved in surrogacy arrangements openly declare any relationships or financial incentives connected to commercial or international surrogacy providers.

f. Culturally sensitive, inclusive services
Embedding First Nations perspectives and culturally safe options, as well as supporting diverse family structures and backgrounds to ensure equitable access.

Learning from International Models

International systems, such as New York's government-licensed surrogacy framework, demonstrate how comprehensive ethical oversight and professional regulation create safer, more transparent pathways to parenthood. Australia should carefully examine and adapt these best practices to fit its legal and cultural context.

Until a regulated, ethical, and evidence-based surrogacy infrastructure is implemented nationally, intended parents and surrogates remain vulnerable to financial, emotional, and legal risks. A consistent, transparent, and accountable framework will protect all parties and build public confidence in domestic altruistic surrogacy as a legitimate, compassionate, and safe option for families.

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

Professional services for surrogacy should operate within a robust, nationally regulated framework that prioritises ethical standards, transparency, and the wellbeing of all parties involved—especially the child. To achieve this, the following principles and practices are essential:

Accreditation and Regulation

Surrogacy services must be accredited and regulated by an independent national authority. This ensures that only qualified professionals with appropriate training in legal, medical, and psychosocial aspects can provide surrogacy coordination, counselling, and legal advice. Licensing should require ongoing professional development, ethical compliance, and accountability.

Multidisciplinary Expertise

Services should be staffed by or connected to professionals from diverse but complementary fields—including fertility specialists, legal experts specialising in family and reproductive law, qualified counsellors or psychologists with experience in reproductive ethics, and social workers. This multidisciplinary approach ensures holistic support for intended parents and surrogates throughout the process.

a. Transparent Operations and Clear Communication
   Professional services must provide clear, upfront information about:

- Their qualifications and regulatory status
- The full scope of services offered
- Fee structures and refund policies
- The realistic timelines and likelihood of successful matching
- Potential risks and legal limitations
- Transparent communication builds trust and helps prospective participants make informed decisions.

b. Rigorous Screening and Support
   Surrogates and intended parents should undergo thorough psychological and medical assessments conducted by qualified professionals to evaluate readiness and suitability. Ongoing counselling should be available before, during, and after the surrogacy journey to support mental health and relationship dynamics.

c. Ethical Matching Processes
   Matching should be conducted thoughtfully and ethically, prioritising informed consent and mutual compatibility rather than speed or financial incentives. Services should facilitate open, honest dialogue and mediate expectations to reduce misunderstandings or disputes.
d. Legal Compliance and Independent Advice
   Professional services must operate within the legal frameworks of their jurisdiction and actively support access to independent legal advice for all parties. They should assist in preparing comprehensive, enforceable surrogacy agreements that safeguard rights and responsibilities.
e. Post-Birth Follow-Up and Mediation
   Services should provide ongoing support after birth, including mediation for post-birth contact arrangements and assistance navigating any emerging challenges. This ensures continuity of care and helps uphold the child's best interests.
f. Conflict of Interest Management
   Clear policies must be in place to avoid conflicts of interest, such as undisclosed financial relationships with fertility clinics or overseas agencies. Services should prioritise the welfare of clients over profit.

By implementing these standards, professional surrogacy services in Australia can foster safe, supportive, and ethical arrangements that respect the autonomy and dignity of surrogates and intended parents while protecting children's welfare.

14. How should surrogacy advertising be regulated?

A. Advertising by Agencies and Surrogacy Services

Advertising by agencies or services involved in surrogacy must be strictly regulated to uphold legality, transparency, and ethics:

- Compliance with Laws: All advertising must comply with applicable state and territory laws, including restrictions or bans on commercial surrogacy promotion. Agencies should not advertise commercial surrogacy beyond reasonable expense reimbursement.
- Truthfulness and Transparency: Agencies must provide accurate information about success rates, fees, timelines, and services. Misleading, exaggerated, or deceptive claims should be prohibited to protect intended parents and surrogates.

- Qualifications and Accreditation: Agencies should clearly disclose their qualifications, accreditation status, and any potential conflicts of interest to support informed decision-making.
- Ethical Standards: Advertisements must respect the dignity and privacy of all parties, avoiding sensationalism or objectification, and promoting informed consent and autonomy.
- Pre-Approval and Oversight: A regulatory or ethics body should review and approve advertisements prior to publication to ensure compliance with laws and ethical guidelines.
- Enforcement and Penalties: Regulators should have powers to investigate, sanction, and penalise agencies that breach advertising regulations or engage in unethical practices.

B. Advertising by Intended Parents Seeking a Surrogate

Advertising by intended parents should be regulated differently to balance transparency and respect without unnecessarily restricting their ability to find a surrogate:

a. Clear Disclosure: Intended parents should provide honest and clear information about their intentions and commitment to comply with legal and ethical standards, including offering only reasonable expense reimbursement.
b. Privacy and Respect: Advertisements must treat the surrogate role with respect, avoiding coercion or language that could exploit or objectify potential surrogates.
c. Legal Compliance: Intended parents must ensure their advertising aligns with relevant laws on surrogacy advertising and commercialisation.
d. Ethical Guidelines: Platforms hosting such advertisements should enforce community standards to prevent exploitation, misinformation, or unsafe arrangements.
e. Support and Resources: Intended parents should be encouraged to seek legal and counselling advice before advertising, and such support resources should be clearly communicated within advertising platforms or groups.

Differentiated regulation of advertising based on the advertiser's role will promote a safer and more ethical surrogacy environment in Australia. Strict oversight of agencies protects vulnerable parties from exploitation and

misinformation, while clear guidelines for intended parents help maintain respect and legality, ultimately supporting transparent, informed, and ethical surrogacy arrangements.

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

Surrogacy is a complex, deeply personal process involving significant physical, emotional, and legal commitments. Fair and clear entitlements are essential to support and protect both surrogates and intended parents throughout this journey.

Entitlements for Surrogates:

- Reimbursement of Reasonable Expenses: Surrogates should be fully reimbursed for all reasonable expenses directly related to the pregnancy and surrogacy process, including medical costs, maternity clothing, travel to appointments, lost wages, and related costs. These reimbursements should be managed through an impartial intermediary service to ensure fairness and prevent conflicts.
- Access to Comprehensive Healthcare: Surrogates must have access to high-quality prenatal, delivery, and postnatal medical care, including psychological support throughout pregnancy and after birth.
- Psychological Support and Counselling: Ongoing emotional and psychological counselling should be available before, during, and after the surrogacy to assist surrogates in managing emotional challenges.
- Legal Protection and Independent Advice: Surrogates should receive independent legal advice to fully understand their rights, responsibilities, and protections, ensuring their autonomy and consent are respected throughout the process.
- Post-Birth Contact Arrangements: Where mutually agreed, surrogates should have the option to maintain respectful, negotiated contact with the child and intended parents, supported by clear and legally recognized agreements.

Entitlements for Intended Parents:

- Legal Recognition of Parentage: Intended parents should receive clear and timely legal recognition as the child's legal parents immediately following birth, providing stability and access to parental rights and responsibilities.
- Access to Counselling and Support: Intended parents should have access to counselling services to support their emotional wellbeing during the

surrogacy journey, including preparation for parenthood and managing potential challenges.

- Transparency and Information: Intended parents must receive full disclosure about the surrogacy process, including the surrogate's health status and any associated risks or legal considerations.
- Reimbursement of Reasonable Expenses: Intended parents are responsible for reimbursing reasonable surrogacy-related expenses incurred by the surrogate in a transparent and fair manner.
- Dispute Resolution Processes: Both surrogates and intended parents should have access to clear, fair dispute resolution mechanisms to address conflicts that may arise during or after the surrogacy process.

Affordability and Access:

- To make surrogacy more affordable, access to Medicare rebates for fertility treatments related to surrogacy should be considered to reduce financial barriers.
- Surrogates should have access to paid or unpaid parental leave, including through enterprise agreements or specific workplace policies, recognising the physical and emotional demands of pregnancy and childbirth.
- Establishing transparent, regulated financial frameworks and intermediaries can reduce costs, prevent exploitation, and ensure fair financial arrangements for all parties.

This framework ensures surrogates and intended parents are supported medically, legally, and emotionally while fostering fairness, transparency, and respect. It prioritises the wellbeing of all parties, especially the child, while addressing key affordability and access concerns within Australia's surrogacy system.

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

Improving the reimbursement process for surrogates is essential to ensure transparency, fairness, and to minimise conflicts between surrogates and intended parents. The following measures could significantly enhance this process:

a. Introduce a National Standard List of Reimbursable Items:
A clear, consistent national guideline specifying which expenses are reasonable and eligible for reimbursement would reduce ambiguity. This list should include medical costs, maternity clothing, travel related to medical appointments, lost wages due to medical leave, and other pregnancy-related expenses. Standardisation ensures all parties share a common understanding and prevents unfair or unexpected claims.

b. Payments Managed Through an Independent Intermediary:
Routing reimbursement payments through a neutral third-party intermediary or escrow service would help avoid direct financial disputes between surrogates and intended parents. This intermediary could verify claims against the standard list and release funds accordingly, fostering trust and accountability.

c. Allow Upfront Funding or Escrow Accounts:
Establishing an upfront funding system or escrow accounts where intended parents deposit funds before the surrogacy process begins can ensure surrogates have timely access to funds for necessary expenses. This arrangement helps surrogates avoid out-of-pocket costs and provides financial security throughout the pregnancy.

d. Regular Financial Reporting and Transparency:
Implementing a system where the intermediary provides regular, transparent financial reports to both parties can help maintain clarity about expenditures and balances, preventing misunderstandings.

e. Flexibility for Unforeseen Expenses:
While a standard list is vital, the system should allow for flexibility to cover unexpected or exceptional expenses, subject to approval by the intermediary or a regulatory body.

Together, these improvements would create a fairer, more predictable reimbursement process that protects surrogates from financial hardship, supports intended parents in understanding their obligations, and ultimately strengthens the integrity of surrogacy arrangements.

17. 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?

I support a model of compensated surrogacy underpinned by strong, transparent regulation, but I do not support commercial surrogacy where profits are made from arranging or facilitating surrogacy arrangements.

A fair compensation model acknowledges and respects the significant physical and emotional labour involved in surrogacy without commodifying the process or turning it into a for-profit industry. While I initially supported only altruistic surrogacy, I now believe that model is outdated and inequitable for surrogates.

The altruistic surrogacy model often creates complex and uncomfortable situations for surrogates. Many find themselves in vulnerable positions where they must negotiate reimbursements or financial support during pregnancy—precisely when they need stability and care the most. This dynamic creates a power imbalance, leaving surrogates dependent on the intended parents' willingness or ability to cover incurred costs, which can cause tension and insecurity.

By contrast, compensated surrogacy provides surrogates with fair remuneration for the physical risks, time, and labour involved. It allows surrogates to prioritise their health and wellbeing—such as taking time off work when unwell—without fear of conflict or financial stress with intended parents. Compensation supports surrogates' dignity and security, recognising their substantial contribution to creating a family.

In summary, compensation should cover all reasonable expenses, time commitments, and the risks borne by the surrogate. However, this must be balanced by robust regulation that prevents exploitation, maintains ethical standards, and ensures surrogacy remains a compassionate, respectful, and ethical practice—not a commercial enterprise driven by profit.

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

If Australia were to permit compensated or commercial surrogacy, it would be essential to implement a robust regulatory framework that protects all parties involved and upholds ethical standards. Key measures could include:

a. Introducing caps on compensation to ensure payments are fair but do not create undue financial incentives that could lead to exploitation or commodification of surrogacy.

b. Mandating that all payments go through accredited intermediaries or regulated agencies to ensure transparency, accountability, and prevent under-the-table transactions or coercion.

c. Requiring comprehensive counselling, psychological screening, and informed consent for surrogates and intended parents to support emotional wellbeing and ensure everyone fully understands their rights, responsibilities, and potential risks.

d. Maintaining strict legal penalties and enforcement for any form of coercion, exploitation, illegal payments, or breaches of ethical standards.

I recommend Australia examine existing regulated frameworks in countries like Canada and the United Kingdom, where compensated surrogacy operates under clear legal guidelines balancing fairness, protection, and respect for surrogates and intended parents.

19. What are the main problems with the requirements and processes for obtaining legal parentage for a child born through domestic and/or international surrogacy?

    a. Delays in obtaining parentage orders: Lengthy legal processes can cause uncertainty and distress for intended parents and children.
    b. Complexities when surrogacy crosses state lines: Different state laws create confusion and inconsistent outcomes, especially when the child is born in one state and intended parents reside in another.
    c. Courts not recognising intent-based parenthood early enough: The lack of timely legal recognition of the intended parents' role can undermine family stability and the child's security.

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

    a. Introduce pre-birth parentage orders: Allow intended parents to obtain legal recognition before the child is born, providing certainty and reducing post-birth legal hurdles.
    b. Make parentage automatic upon birth when a regulated surrogacy agreement is in place: This would recognize the intended parents as the legal parents immediately, avoiding delays and potential disputes.
    c. Establish a streamlined, uniform national legal framework: Consistency across all states and territories would simplify the process and support families, especially in interstate or international surrogacy cases.
    d. Simplify and expedite court procedures: Fast-track surrogacy-related parentage orders to reduce waiting times and legal expenses.
    e. Provide clear guidelines and maximum timeframes: Transparency and predictability in decisions benefit all parties.
    f. Offer provisional parentage recognition: Interim legal status during processing protects the child's welfare.
    g. Enhance support and education: Ensure intended parents understand their rights and responsibilities throughout the process.

h. Improve cross-jurisdictional cooperation: Facilitate recognition of parentage across different legal systems and borders.

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

a. Harmonise laws through a federal legislative framework: Establish a consistent national approach that sets clear standards and processes for surrogacy across all states and territories.
b. Develop national model legislation with opt-in provisions: Allow states and territories to adopt uniform laws voluntarily, ensuring flexibility while promoting consistency.
c. Eliminate inconsistencies regarding eligibility and conditions: Standardise who can access surrogacy and under what terms, reducing confusion and barriers for intended parents and surrogates.
d. Promote interjurisdictional cooperation: Facilitate legal recognition of surrogacy arrangements and parentage orders across borders to support families navigating different legal systems.

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

Yes, surrogacy arrangements should be subject to oversight to ensure the rights, wellbeing, and safety of all parties involved—especially the surrogate and the child. Effective oversight helps prevent exploitation, coercion, and unethical practices while supporting informed consent and fair treatment.

Best approach to oversight:

a. Establish an independent regulatory body: A dedicated authority or panel should review and approve surrogacy arrangements, ensuring they meet ethical, legal, and medical standards.
b. Mandatory pre-approval processes: Require that surrogacy agreements, including legal, medical, and psychological assessments, be reviewed before medical procedures commence.
c. Ongoing support and monitoring: Provide access to counselling and support services for surrogates and intended parents throughout the process.

d. Clear reporting and dispute resolution mechanisms: Create transparent systems for raising concerns, resolving conflicts, and protecting parties' rights.
e. National consistency: Implement uniform oversight standards across jurisdictions to avoid regulatory gaps and inconsistencies.

Oversight should balance protection with respect for autonomy, enabling surrogacy to be a safe and ethical pathway to parenthood.

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

Yes, the law should play a role in discouraging or prohibiting forms of surrogacy that pose significant ethical, legal, or human rights concerns. This includes practices that exploit vulnerable individuals, commodify children, or undermine informed consent and autonomy.

Key areas where law should intervene include:

a. Prohibiting commercial surrogacy with profit motives: To prevent exploitation and the commodification of surrogacy as a commercial enterprise.
b. Banning coercion or trafficking: To protect surrogates from pressure, undue influence, or human trafficking.
c. Restricting unregulated overseas surrogacy arrangements: To address legal uncertainties, protect the welfare of children, and avoid jurisdictional conflicts.
d. Regulating advertising and matchmaking services: To prevent misleading information and protect parties from predatory practices.

While the law should discourage harmful practices, it should also support ethical surrogacy arrangements that uphold the rights and wellbeing of surrogates, intended parents, and children.

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

Yes, there is a strong need to improve awareness and understanding of surrogacy laws, policies, and practices among all parties involved, including surrogates, intended parents, legal professionals, healthcare providers, and the wider community.

Many people remain unaware of the complexities and variations in surrogacy regulations across different states and territories. This can lead to confusion, unintended legal risks, and emotional distress. Improving education and clear communication will:

a. Help parties make informed decisions
b. Reduce misunderstandings and disputes
c. Support compliance with legal requirements
d. Foster respectful and ethical surrogacy practices

Educational initiatives, accessible resources, and professional training are essential to build confidence and protect everyone involved in the surrogacy journey.

26.Do you have any views about the issues we consider to be in or out of scope?

Yes. While I support the current scope focusing on surrogacy regulation and processes, I believe that the fertility industry as a whole—particularly donor conception, which is often closely intertwined with surrogacy—should also be considered in broader reviews. Both donor conception and surrogacy face significant challenges due to the existence of eight different jurisdictions with varying laws across Australia.

The differing state and territory laws not only impact surrogacy directly but also affect donor conception, creating complexities that ultimately influence the best interests of the children born from these arrangements. Addressing these overlapping legal frameworks in a unified way is essential to provide consistent protections and clarity for all parties involved, especially children.

Maintaining clear boundaries between assisted reproductive technology (ART) for general fertility use and surrogacy-related issues remains important. However, recognising the interconnectedness of donor conception and surrogacy will strengthen any reforms aimed at supporting families formed through these pathways.

27.Are there any important issues with regulating surrogacy that we have not identified in the Issues Paper? Do you have any other ideas for reforming how surrogacy is regulated?

Yes, several additional issues and reforms should be considered to strengthen surrogacy regulation:

a. Lack of national consistency and clarity: The current patchwork of state and territory laws creates confusion and barriers for all parties involved. A nationally consistent legislative framework would improve clarity, streamline processes, and uphold the best interests of children and families.
b. Inadequate regulation and oversight of intermediaries: Without licensing and professional standards for agencies and coordinators, risks of exploitation and misinformation remain. Establishing an accreditation system would safeguard parties involved.
c. Insufficient support for surrogates: Comprehensive psychological support, fair reimbursement, and clear rights before, during, and after pregnancy are essential to protect surrogates' wellbeing and autonomy.
d. Recognition of diverse family structures: Laws should explicitly support all family types formed via surrogacy, including same-sex couples, single parents, and culturally diverse families.
e. Post-birth relationship and contact arrangements: Clearer, child-centred guidelines on contact and relationships between surrogates, intended parents, and children are needed.
f. Education and awareness: Dedicated initiatives to improve understanding of surrogacy laws, ethics, and supports would reduce stigma and misinformation.
g. Integration with donor conception regulation: Given the overlap between surrogacy and donor conception, reforms should address both sectors cohesively to protect children and families.
h. Creation of a National Surrogacy Register: A centralised register would track surrogacy data and facilitate access to important information for children born through surrogacy, supporting their identity rights.
i. Development of post-birth support programs: Structured programs offering ongoing support to surrogates, intended parents, and children would address emotional, psychological, and social needs after birth.
j. Inclusion of First Nations perspectives: Surrogacy regulation and services must incorporate culturally safe practices and options respectful of Indigenous communities' values and traditions.

Addressing these issues would foster a transparent, fair, and supportive surrogacy system that respects and protects all parties.

Thank you for considering my submission.

Yours Faithfully,

[redacted]