[redacted]

27th June2025

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 a surrogate and I have recently given birth to a little girl that was born through gestational surrogacy. Her parents were once strangers but now lifelong friends after I connected with them through the Facebook group Australian Surrogacy Community (ASC).
I want to help change the future for intended parents who are trying to make their dream a reality, for surrogates who have selflessly given the gift of altruistic surrogacy and for the children born through surrogacy who wouldn't be here if not for the ultimate gift.

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?
There have been so many parts of my experience that were positive. I have made lifelong friends not just with the people that I carried for but with other Intended Parents and fellow surrogates. I was able to birth a healthy baby girl at the age of 41 for people I had never met before joining the surrogacy community and make the dream of a family come true for people that may never have become parents otherwise. I have used my voice to give back to the community by supporting and educating others and raising awareness about surrogacy.

What parts of your experience were negative?
Having to find information on the process with many things differing from state to state was difficult and stressful to say the least. I also had to advocate a lot for myself which meant having the strength to speak up for myself which can be quite difficult for a lot of surrogates. The fact that we were charged a surrogacy fee of almost $2000 as a team from the fertility clinic without them doing anything additional to warrant charging such an exorbitant fee.

What could be improved and how?
The same laws for every state and territory that doesn't exclude people or make it unnecessarily even more difficult to find a surrogate. Same sex couples should have the same rights and you shouldn't be forced to find a surrogate in your own state. These things are what push some people towards overseas surrogacy as they have considerably less options.

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?
I think all the circumstances of a child born through surrogacy should be information that they are entitled to have if they so wish to see it. It is their origin story and it is important that they know where they came from. Knowing where you come from and how you were conceived shapes your identity and your overall sense of self.
There should be a national register of children born through surrogacy. At the very least it could be input when the birth is registered by the birth parents by creating a surrogacy tick box that then leads to questions about the birth of the child.

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?
The main barrier is that there are not enough surrogates and that the laws differ from state to state. Surrogates are the ones doing the actual work and it is all altruistic for them, meanwhile fertility clinics, fertility specialists, lawyers, councillors etc are all making money off surrogacy and the only person who isn't being compensated is the woman carrying the baby. She's putting her life on the line, leaving herself open to long term health problems, going through the transfers, failed transfers, miscarriages, infant loss etc and at times she sees nothing at the end, not even the baby. We might get more women wanting to do surrogacy if they knew for sure that their expenses were going to be covered and that she would be looked after.

6. Should there be eligibility criteria for surrogacy? If so, what should those requirements be?
The eligibility at the moment depending on the state or territory is that you need to be over the age of 25 and up to the age of 52 depending on the clinic but this may be increased in particular circumstances. They generally need to have had their own children/finished their family and be medically cleared to have a child. There are surrogates that have had no children before being a surrogate and one's that have gone on to have more children of their

own afterwards. Every woman and what they are capable of is different and I think this should be looked at on a case-by-case basis as a woman under the age of 25 for example may have finished her family and be ready. The older a woman gets the harder a pregnancy usually is but we are also seeing a lot more women of advanced maternal age having pregnancies later in life. If a surrogate is aware of the risks, medically cleared and feels like she is able to, then should age be a factor at all?

7. Are there any current requirements which should be changed or removed?
I believe the age requirements should be removed all together. It is hard enough finding surrogates in Australia without having age barriers to also contend with. I don't think a woman should have had her own children first or have finished her family. Give women their autonomy and let them decide what they are capable of. There are all types of people in this world and what one person is capable of and can do, will differ from the next. Surrogates aren't all cookie cutter which is why some can be just a gestational surrogate whilst another can be a traditional surrogate. Many women in general change their mind about wanting more or less children once they have given birth and saying that they must have completed their families or had their own children first makes it difficult as you just don't know how you are going to feel later on down the track. A surrogate could have technically completed her family first by not wanting to have a family from the get go, so thus completed it.

9. Should surrogacy agreements be enforceable?
Not having an enforceable agreement regarding surrogates wants and needs means we can be open to surrogacy costs that aren't ours to bear. I think to a degree surrogacy agreements need to be enforceable when it comes to surrogates being looked after during the process of carrying someone else's child. In regards to the agreement with respect to the rights of the child then the agreement needs to be looked at with what is best for them. What an agreement has at the beginning before you start the process or become pregnant can be very different to what you need during the process and after birth. For myself personally I was asked to put everything into the agreement that I could think of regarding my wants and needs but I'm only going off my previous experience to what those needs are. I myself failed to write in my post-partum needs so my Intended Parents could say if they were inclined that that wasn't discussed or written in prior so I'm not covered, with the agreement also not being enforceable.

10. What process requirements should be in place for surrogacy arrangements?
The current process once you have found a surrogate work to a degree, though is quite laborious. The surrogate needs the all clear from her doctor and then gets a referral to the fertility specialist for the all clear. Counselling needs to be done by the surrogate and her partner/spouse if she has one, by the Intended Parent/s and then as a team. Each team has their own legal council and then everything is taken to the board for a review before you can begin transfers. Having the counselling really helps to ascertain if your values, thoughts and personalities align on some topics that are unthinkable/unlikely but may happen.

11. What are the gaps in professional services for surrogacy in Australia?
Counsellors that specifically deal with surrogacy are quite busy which can put teams behind when they are waiting on reports to go to the surrogacy board for example. Due to the nature of IVF everything is very timed and waiting on things can push timeframes out considerably in regards to transfers for example.

12. What is the best way for professional services for surrogacy to operate?
It would be nice to see fertility clinics more regulated in regards to fees. Surrogacy teams are being charged an additional fee up to $3000 by clinics just because it is a surrogacy arrangement. In most cases there isn't much if any additional work being undertaken by the clinic to warrant such an exorbitant fee. It is already an expensive process without what seems to be a cash grab by clinics and it grows resentment and animosity towards fertility clinics as Intended Parents just feel like they are being taken for a ride.

14. What entitlements, if any, should be available to surrogates and intended parents?
I would like to see the same Medicare benefits for anyone seeking to freeze embryos. Whether you have a social or medical need the need is there regardless.

15. How could the process for reimbursing surrogates for reasonable expenses be improved?
Surrogates shouldn't be out of pocket. I paid for everything myself and was then reimbursed which relied on me tracking my own expenses and then claiming them back. This is time consuming for me and I also have an extra level of stress because I'm keeping receipts, calculating fuel etc when I'm already busy looking after my own family whilst growing someone else's baby. It is generally very hard for surrogates to speak up about money related issues and can be quite a common cause of team friction and breakdowns.
Some surrogates get a separate bank card linked to an account with money in it that the Intended Parents set up for them. It would be nice to make this a mandatory part of the process with the starting amount at a blanket amount for all teams and then topped up if needed in increments of a set amount. This needs to continue up until at least the Parentage Order is done because there are still a lot of post-partum expenses and this is quite a vulnerable time for women who have recently given birth.

16. 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 wholeheartedly support compensated surrogacy.

17. If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented?
It could be written up as part of the surrogacy agreement. When dealing with any of the other services like counselling, legals etc the work is given and then payment is made. Many businesses ask you to pay at the time or upfront and this could be similar.

24. Should the law have a role in discouraging or prohibiting certain forms of surrogacy?
Definitely. Surrogacy should be done through proper legal channels so that child knows where it came from and has its sense of identity.

25. Do you think there is a need to improve awareness and understanding of surrogacy laws, policies, and practices?
Yes, due to there being differences across the states and territories it already makes it hard to seek out the right information as you need to ascertain what state the surrogate is from along with the Intended Parents to get or give the correct information.

Thank you for considering my submission.

Yours Faithfully,

[redacted]