[redacted]

11 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 a parent through surrogacy and although any law changes will not have an impact on me, I believe it is important to partake in the submission to help future families.

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:

As an intended parent, now parent through surrogacy there are many different positives that the whole journey has brought me, but none greater than my son [redacted] who is now almost 15 months old, he was born in April 2024.

Our journey to [redacted] was a very long one. I was diagnosed with endometrial cancer in 2017. After using a Mirena for a couple of rounds we managed to beat it. We tried for a baby and had a chemical pregnancy followed by an ectopic

pregnancy, it was during the procedure to remove my tube that they discovered the cancer had returned. After another round with a Mirena my results had gotten worse and an immediate hysterectomy was recommended. By now it was October 2020. I was so very fortunate that my Drs at Heidelberg Mercy arranged an appointment at the Royal Women's Unit for fertility preservation. I underwent two back to back egg retrievals and then 4 days after my last retrieval I had my hysterectomy.
In Dec 2019 when I had had the ectopic pregnancy and I realised that surrogacy might be our only option of having our much wanted baby I googled surrogacy in Australia, and possibly also searched on Facebook. Somehow I came across the Australian Surrogacy Community on Facebook. I joined so I could learn as much as possible. It was there that I made a support network, people who understood what the trauma we faced was actually like. I posted a few times, but nothing was concrete until Oct 2020, I am one of the lucky ones, I had my hysterectomy in Dec of 2020 and by Jan 2021 I had started chatting to a (was no longer interested in being a surrogate) surrogate, [redacted]. In May of 2021 [redacted] offered to carry for us. From there it took 2 years to do our first transfer and while some of that was down to her, us and timing, a lot had to do with laws here in Victoria and various hoops we had to jump through. While I wouldn't say it was a negative, having so many boxes to tick, some appointments being money makers for a professional rather than of importance to us or our team, then yes they were negative and time consuming.

Our team overcame difficulties, because surrogacy is hard, it takes so much effort and understanding. There are hormones at play and 2 families trying their best to work together, but sometimes communication is hard, especially if you add in distance, our team was an interstate team (she's in Qld).

One of the negatives of course is that if I'd have been able to get pregnant with IVF then we would have received our Medicare rebates, but of course, being surrogacy and "social" we received nothing back.
Another negative is that [redacted] had to register [redacted] and to this day he is still attached to her Centrelink profile and not to us, after a 2 hours call to centrelink by me to try and rectify this I got disconnected and haven't bothered since. We had to wait until he was over 8 months old until we got his first medicare card, because the people we kept dealing with refused to issue one in either [redacted]'s name or ours, that call to Medicare took another 2 hours, I got disconnected again but thankfully the man I was working with rang us back.

One positive that can not be overlooked is that I built a friendship with [redacted], someone who is now closer to me than most people, she is my soul sister whose generosity and kindness can never be repaid, who loves our family like her own as we love hers.

2. What reform principles should guide this Inquiry?

I believe that protection against exploitation must be a central principle in surrogacy reform, but this relates to both the intended parents as well as surrogates. I've seen a few instances in Australia of cases where surrogates have taken advantage of IPs and asked for elaborate gifts or money to get paperwork signed i.e. the parentage order. On the other hand I've heard of surrogates being left out-of-pocket for post-birth medical expenses, which is unacceptable. Surrogacy needs to be fair for both parties. Surrogates and intended parents must enter arrangements voluntarily. In the end everything must be done in the best interests of the child.

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?

I think with foreign surrogacy that exploitation and getting legal recognition of parentage are major concerns.
In our case we really didn't have to wait long to get our birth certificate, once we managed to get all the paperwork from our lawyer and then get it correctly signed. There was an extra cost because of course we had to get a birth certificate with [redacted] and her husband's details and then get his new one with us as his parents. I must say the biggest stress was not being able to get a Medicare card for [redacted], it felt like we were lesser. I was absolutely petrified of him getting sick and needing a gp or to go to hospital. It's also really unfair having to answer each time we went to get his immunisations "why is Medicare taking so long.."

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?

Honestly I believe that children through surrogacy, adoption or egg/embryo donation deserve to know their story. Surrogacy that consists of the parents genetic material probably doesn't require the same transparency from a medical standpoint i.e. genetic issues, family history of cancer etc. I do not like that a birth

certificate may state “more information available” or anything along those lines, why does someone at Vic Roads or the child's school need to know there is more to this person's story? This information should come from the parent and be for the child, not for anyone else to question.

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?

Finding someone wishing to be a surrogate. Having women realise it is an option to be a surrogate here. It is amazing how many people I’ve told our story to, that thought that surrogacy in Australia was illegal. I’ve also had to explain how a surrogate isn’t out of pocket, and that paying wages, fuel etc is still altruistic and not commercial.

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

Yes there should be an eligibility criteria, there is already a limited number of women willing to do surrogacy, it is unfair if surrogacy was to become open for all especially if commercial surrogacy was allowed in Australia, it would become outpriced for the average person who actually has a physical need for a surrogate.
I believe that women who have lost fertility or who have a long record of miscarriages and/or failed transfers should be able to access surrogacy. Woman unable to carry for medical reasons i.e. MRKH, coronary reasons, transplants etc

I don’t believe homosexual men should be excluded from accessing surrogacy.

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

Each state has a different law, in Qld a surrogate is not required to have had a child but must be over 25. In the ACT a surrogate can be 18. In Victoria they must have completed their family/had at least one living child and be over 25.
I believe that during a surrogacy journey a woman should have her own bodily autonomy, I also believe she should be allowed that by the government and if a woman without a child wishes to be a surrogate, she should be allowed to choose what she can do with her body.

I do however think the minimum age for a surrogate should be over 21, though I have no issue with it staying at 25.

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

Victoria doesn't require a surrogacy agreement and as they're not legally enforceable I think that they are a waste of time. Both parties should be open and honest about their wants/needs and their word should be able to be relied on.

9. Should surrogacy agreements be enforceable?

I don't know how that would be possible given that bodily autonomy is required. A surrogate may agree to having her Ips in the room when she births, but then just not be comfortable doing that, how would it be enforced? The Ips may have said they're comfortable with the surrogate feeding the baby, but then not be comfortable, how would we enforce that?

10. —-

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

Each state has such different requirements, I believe it would be more costly in Victoria to engage in surrogacy than in Qld. In NSW to get the parentage order costs at least 2x what it does in Vic and in other states it's free.
No where is surrogacy actually fair on the intended parents. There are so many areas where we are disadvantaged to "normal" people, who can just have babies.
Surrogacy costs the ips a fortune and a surrogate who actually does all the 'work' receives nothing other than feel good moments and knowing she's helped create

a family. Lawyers, Doctors, Counsellors and Clinics make a fortune off of our suffering.

Mental health support for intended parents is also overlooked. The journey to parenthood via surrogacy is emotionally complex, particularly for those with a history of infertility or pregnancy loss. Yet there are few services aimed at helping intended parents cope with the stress, anxiety, and fear that can accompany the process.

I do think a matching service would be amazing, but I also recognise this will again work in the favour of a select few. Maybe a government matching service, or clinic service, which is provided for free, or cost price, to avoid making more money off Ips.

Finally, services are highly inconsistent between states and territories, making the process confusing and unequal depending on where people live. Uniform national standards for counselling, legal advice, and medical care would go a long way toward improving the experience and safety of everyone involved.

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

The best model would be one where services are accessible, consistent, and independent considering the emotional wellbeing for everyone involved. Not for profit would be the most fair model to both surrogates and Ips.

13. How should surrogacy advertising be regulated?

I think that intended parents should be able to put themselves out there on surrogacy related groups, it shouldn't be deemed advertising if you're sharing your story.
If people are in those groups they're obviously interested in surrogacy, how does it hurt anyone if someone is asking for a surrogate?
I'm not sure anyone is going to be advertising in a newspaper these days, but again, how is it hurting anyone?

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

The same entitlements as any other parent. Medicare should be available, medical services, paid maternity leave. We're just normal people who need a little help to get their baby. We should not be discriminated against. Surrogates should be able to access these services or payments as well. They're already giving so much.

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

I know overseas do escrow accounts. While this could be a good option for some teams, I don't believe it should be enforced. There could be an independent body that is across surrogacy and what can and can't be paid to keep it altruistic and they can approve the payments. There should be a way to make sure the surrogate has the funds she needs, without also costing the Ips thousands of dollars.

In my team we supplied our surrogate with a debit card, she could make any purchases needed. She sent a copy of receipts in case we were going to need them. For fuel we paid her the going rate from the ATO per km. We bought her food every now and then, so in the first trimester I got a couple of orders in from the supermarket to avoid her having to go out while feeling sick. Later on she got an uber eats here or there when feeling exhausted and towards the end of the pregnancy we got her some Hello Fresh boxes to make life easier. Had we lived near her we could have helped cook meals, but for our team that wasn't an option.
Things that should be paid for by the Ips, anything she requires because she's pregnant with your child. Ie vitamins, fuel to go to scans, clothing, obstetrics appointments, time off work to go to appointments. A meal here or there because she's too exhausted. Physio, Dr an occasional massage.

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 believe in my version of altruistic surrogacy as mentioned above. I'm not sure if that's what you mean by compensated. It's not compensated though, it's just making sure she's not out of pocket.

While I am not against commercial surrogacy, I am on a lot of O/s groups and what I see is often disturbing. You have surrogates one upping each other trying to get 100k (USD!) or more. You have Ips who are paying 60k (USD) or more who treat their surrogate like an employee. You have agences that are unscrupulous.

Where there is such money to be made, you run the risk of women being exploited, surrogates being coerced into agreements they don't fully understand, treated like wombs for hire, or pressured by financial desperation. Intended parents, can be taken advantage of, emotionally and financially by unethical agencies who see surrogacy as a business transaction.

My main reason for being so on the fence about commercial surrogacy, and it's something I have to grapple as I think about a sibling journey, knowing how impossibly hard it will be to find another surrogate here in Australia; is knowing that [redacted] helped us create a baby, because she liked us, she wanted us to have a baby, he was created out of love, not for profit. I have a hard time thinking how I might explain a commercial surrogacy journey to our future baby.

17. —

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

I can only talk about domestic as that is my lived experience. It was a lot of work dealing with a newborn and every other change that life throws at you when having a baby, having to get a birth certificate, all our id, having to find a JP (in our tiny town) getting about 30 pages signed (honestly I can't recall but there were lots and lots our poor JP had to sign) having to take out time to email lawyers, organise our surrogate, get her husband and her to a JP, then have their paperwork be wrong several times. It was an extra burden. If we could have had a pre birth order in place, I'd have done it in a heartbeat!

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

Recognition should be automatic. We've done everything that allows for transfer to occur, there shouldn't be more paperwork after birth!

20. —

21. —

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

I believe surrogacy in Australia needs a nationally consistent legal framework.

A consistent framework should cover:

- eligibility criteria,
- surrogate and IP rights,
- medical and counselling requirements,
- financial arrangements, and
- a clear, national parentage recognition process.

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

Yes, by independent panels or by accredited agencies i.e. clinics.

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

Of course, if someone is being coerced into being a surrogate, then it is in the best interest of the community that this practice is stopped. That is what laws should be, things that are for the best interest of the community, not penalising people who are already disadvantaged by infertility.

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

I do feel like more education is needed. I personally educated my fertility Dr and also my oncologist, he sees many patients in my position so I actually typed him up a list of resources for future patients.
Luckily our Obgyn had actually had a past surrogacy case, she actually wasn't all that approving of altruistic surrogacy, but she was better than someone we had to explain to constantly. Never though, did she treat me like [redacted]'s mother. The midwives we had were amazing. The hospital staff ([redacted]), although they had had several surrogacy births there were out of their depth and didn't really understand, mostly leaving us to our own devices. We had to pay $750 a night to be able to stay, which over 4 nights was another hefty sum.

In the community there are so many people who don't even realise surrogacy is legal, or they think it's commercial, akin to adoption etc. There should be an Australian government website that covers Australian Surrogacy as well as international.

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

Obviously I think fixing Medicare & Centrelink as well as BDM would be incredibly handy for future teams.

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?

I think my responses to earlier questions probably raise a lot of the points already. We were very lucky with our Monash IVF team, because we had a team breakdown at around 6 months, they supported both myself and [redacted] with individual weekly sessions. As we got back on our feet they moved (for me) to two weekly. This continued until at least 4 weeks after [redacted] was born. By this time our team was functioning better than ever, honestly a monthly catch up with our psychologist would have been nice until at least the 3 month mark.

We can not ignore intended parents' grief and fear during the pregnancy, especially if they've experienced loss before. Also the emotional strain of the legal parentage process, waiting months to finally become your child's parent, if [redacted] had any medical issues by rights we had to gain [redacted]'s permission. This means that she could have opted to have our child treated in a way that did not align with what we wanted, while this never occurred, it is a very possible risk.

Thank you for considering my submission.

Yours Faithfully,

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