[redacted]

11/07/2025

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 surrogate who is currently pregnant for my Intended Parents whom I have known for over 15 years. I have undertaken two previous transfers and have been on this journey with my team officially since Dec 2022.

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? The joy of creating life for someone who could not and the hope of creating a family. Meeting with a counsellor who understood the world of Surrogacy and feeling supported through that process. Having a well-established relationship with my Intended Parents who were able to support me through the difficulties of Surrogacy.
    - What parts of your experience were negative? A failed transfer and a miscarriage.
    - What could be improved and how? The process was fairly straightforward but still suffered delays in waiting for approvals from the Fertility Specialist signoff and waiting for the report from the Counsellor.

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 any child of Surrogacy should have the right to information of their birth. Ideally this should be provided by their family but if not, information should be accessible if requested.

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 a Surrogate. The 'Community' is established but only really present on social media. If you are lucky enough to have someone within your network willing to help you as a Surrogate you might be successful but without this you might find it difficult to find someone who is willing to help. Some Intended Parents do not wish to provide ongoing contact/relationships with Surrogates this would make overseas options more appealing.

6. Should there be eligibility criteria for surrogacy? If so, what should those requirements be? I do think that Surrogacy being a 'need' rather than a 'want' is appropriate. I don't think people should be able to 'prefer not to be pregnant' as a reason for needing a Surrogate. At the same time however, I do think it is unfair for some Intended Parents who have recurring miscarriages or unexplained infertility or a host of other reasons being restricted from being 'signed off'. I don't think its fair to have different requirements across different states and that some of the existing ones could be considered discriminatory.

7. Are there any current requirements which should be changed or removed? All states should allow same sex relationships engage in a Surrogacy Agreement. Intended Parents and Surrogates should not have to reside in the same state.

8. Are there any requirements for a valid surrogacy agreement you think should be added, removed or changed? The requirement when it is not legally enforceable seems redundant. I do appreciate having a reimbursement requirement.

9. Should surrogacy agreements be enforceable? I think it makes the process of having an agreement redundant if the agreement is not legally enforceable. The cost of creating one can vary and is open to non-relevant and contradictory clauses. If it is in place and necessary then it should have merit of its existing. I think that Intended Parents shouldering the cost of the whole process should be able to have confidence that their undertakings end up as planned.

10. What process requirements should be in place for surrogacy arrangements? I agree with physical, psychological and legal requirements being undertaken in order to set teams up for success. As mentioned in an alternative question I am hesitant to agree to teams being subject to an approval board that can just make a call on whether teams can proceed or not. I would need to understand more about how they would support dealing with any concerns rather than just a check box exercise. Yet another approval to add to the list. If a Counsellor, Lawyer, Fertility Specialist have already signed off, what else really needs to be considered?

11. What are the gaps in professional services for surrogacy in Australia? I would like to see a singular National not-for-profit matching service be available which could potentially assist those who do not have known Surrogates.

12. What is the best way for professional services for surrogacy to operate? Not-for-profit. Costs are already high within this space and considering Australian Surrogacy is supposed to be 'altruistic' it would be inappropriate for others to profit when they are not sacrificing their bodies for this process.

13. How should surrogacy advertising be regulated? Seeking a surrogate should be allowed. 'Advertising' should only be restricted so as to not offer a commercial situation. Those seeking a surrogate should be able to share that need.

14. What entitlements, if any, should be available to surrogates and intended parents? Medicare should be an option for Surrogacy. All the other rules and regulations are costly enough. Only those who need it undertake it and it would be appropriate to offer rebates to those who have been able to jump through the many hoops to making Surrogacy happen. I also agree and request no change to PPL being available to both Surrogate and Intended Parents.

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 agree with a compensated model. I do think it is unfair that all other touchpoints of Surrogacy result in benefit yet the woman undertaking the risk of being pregnant received nothing. No Surrogate that I know of is out to 'make money' through Surrogacy but being compensated for the risk, the time and effort, the emotional toll would be appropriate. If I were an Intended Parent I know that I

would struggle to show my gratitude and I don't think that 'gifts' should be illegal in showing appreciation.

17. If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented? This is difficult to answer. I think possibly getting to the point of transfer could create an eligibility and possibly a week/pregnancy entitlement could be appropriate. Yes, I think there should be a limit to avoid a 'commercial' situation.

19. How could the process for intended parents to become the legal parents of children born through surrogacy be improved? I do not think it's appropriate to have the Surrogates partner listed as Father on the Birth Certificate. I do however personally look forward to getting a copy of the Birth Certificate of my QLD child that I give birth to reflecting my name prior to the Parentage Order being completed as a memory of our journey. Only because there is no other option for my recognition to be reflected. I would suggest having Intended Parents listed and if appropriate a Surrogate listed on the Birth Certificate. I do think attending court while a beautiful milestone could be avoided and a pre-birth order be completed and then paperwork filed reducing the strain on the legal system and costs.

22. What is the best way to approach differences in surrogacy regulation between or within jurisdictions? I would prefer a consistent approach across the country. I do not agree with there being different regulations within states.

23. Is it appropriate for surrogacy arrangements to be subject to oversight? If so, what is the best approach? As a QLD Surrogate I appreciated not having to complete the PRP process required in VIC. I would have been upset if someone was able to make a judgement call on whether I was allowed to continue on my journey with my Intended Parents or not. I do however acknowledge that an oversight board might be able to provide concerns on 'teams' who maybe rush through the process or don't have established relationships that might lead to issues down the line. I'm not saying there could no benefit to an oversight board but that I would want its reach to be limited.

24. Should the law have a role in discouraging or prohibiting certain forms of surrogacy? No. As a Surrogate I am blessed with the ability and willingness to help someone else who cannot carry a child. I am choosing to do this and no-one, including those who personally do not agree with it should be able to dictate whether I can or cannot give the beautiful gift of life to someone who desperately wants it. I would say, if you do not want to be a Surrogate – don't. But let those who do wish to undertake this journey do so.

25. Do you think there is a need to improve awareness and understanding of surrogacy laws, policies, and practices? Yes. It is still the opinion of some that Surrogacy is illegal in Australia simply from a lack of education. You could say that those who need to know are able to educate themselves but if there is a perception that Surrogacy is illegal – possibly stemmed from specifically 'Commercial Surrogacy' being illegal. I believe more could be done to share the existing laws and practices to help create wanted families.

26. Do you have any views about the issues we consider to be in or out of scope? I would prefer a situation where there was a National Egg/Sperm Bank available and regulated within Australia to avoid Intended Parents needing to look outside of Australia.

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 personally feel that the laws for Adoption in Australia directly impact the need for Surrogacy and if there were more allowability for Intended Parents to be able to adopt within Australia that more children would be spared challenging upbringings and families created.

Thank you for considering my submission.

Yours Faithfully,

[redacted]