Submission to the Australian Law Reform Commission: Review of Surrogacy Laws
From an Intended Surrogate

Dear Commissioners,

My name is [redacted], and I am currently an intended surrogate for a loving, committed couple who are unable to carry a child due to serious and permanent health conditions. This couple has been foster carers, opening their home and hearts to children in need for years. They have so much love to give, and surrogacy is their only option to grow their family.

When I offered to carry a child for them, I expected the process to be deeply meaningful and at times challenging. What I didn't expect was the legal and logistical maze we would have to navigate, simply to help create a much-wanted life.

Even as a heterosexual couple, the intended parents have faced significant barriers - not because of who they are, but because of where they live and how inconsistent, outdated, and under-resourced Australia's surrogacy system is. This has made the process harder for everyone involved - medically, legally, and emotionally.

I'm making this submission because I believe we can, and must, do better - for intended parents, surrogates, and most importantly, the children born through surrogacy.

My Experience: What's Not Working
From the beginning of this journey, we are encountering hurdles that are unnecessary and, frankly, disheartening. These included:

- Delays and confusion in the medical system, where many practitioners lacked basic understanding of surrogacy processes, referral pathways, or even how to support a surrogate pregnancy.
- Lack of consistent national policy, which meant that rules around eligibility, legal parentage, and allowable expenses varied depending on the state we were in (even when the intentions and needs of the people involved were clear and ethical).
- Uncertainty around reimbursable expenses, which leave us as surrogates at risk of financial burden, and make the intended parents anxious about doing the wrong thing legally, despite wanting to support us fully.

What struck me most was that this experience, which should have been based on trust, cooperation, and joy, was too often marked by legal grey zones, systemic delays, and fear of "getting it wrong."

The Broader Picture: Other Families, Other Barriers
While the couple I'm helping are heterosexual, I feel strongly that same-sex and LGBTQ+ families deserve the same rights, recognition, and support. Sadly, this is far from reality.

For example, in Western Australia, altruistic surrogacy is still not legally accessible to gay couples or single men. This is a blatant form of discrimination and forces many families to go overseas or suffer a lifetime of heartache missing the family they never got to create.

Same-sex couples across the country face extra scrutiny, longer timelines, and sometimes fewer options from clinics or professionals who are less familiar with or accepting of non-traditional families.

These experiences speak to a wider issue: that our current laws do not treat all family types equally - nor do they reflect modern values of inclusion, autonomy, and human dignity.

What the Law Should Reflect
The current patchwork of state-based laws is confusing, inconsistent, and in many cases unjust. The process is emotionally and financially taxing - and too often puts the rights and wellbeing of children, parents, and surrogates at risk.

The ALRC's Issues Paper raises the right themes: access, eligibility, parentage, reimbursement, international surrogacy, and human rights. These aren't just policy categories — they are people's lived realities. I've experienced some of them. Others I've seen play out through friends and in the broader surrogacy community.

Recommendations
With that in mind, I respectfully recommend the following reforms:

1. A National Surrogacy Framework for All Family Types
We need a consistent, Australia-wide legal framework that allows all people - regardless of state, sexuality, gender, or relationship status - to access ethical, supported surrogacy. Parenthood should not be determined by postcode.

2. Pre-Birth Parentage Orders
The current system, where I would be legally recognised as the baby's parent even though I have no intent to raise the child, is outdated and unnecessary. Legal parentage should be established before birth based on intent and agreement, ensuring clarity and reducing emotional and legal stress for all.

3. Compensated Surrogacy
Surrogacy is an immense commitment. Everyone else involved - lawyers, clinics, psychologists - is paid. Yet the person doing the most vulnerable and risky work is expected to give their time and body entirely for free. A fair, regulated system of compensation would honour surrogates' contributions without commercialising the process.

4. Decriminalise International Commercial Surrogacy
Criminalising families who go overseas for surrogacy doesn't prevent the practice - it just makes it riskier and more emotionally fraught. We need laws that focus on safeguarding children and ethical practice, not punishing loving parents.

5. Clear, National Rules on Reimbursable Expenses
Right now, surrogates and intended parents are left to interpret vague guidelines, often with legal risk. Clear, consistent rules would protect everyone and avoid misunderstandings.

6. National Donor/Surrogate Registry
Children born through surrogacy have a right to know their story. A national registry would preserve important information about donors and surrogates, accessible when a child is ready and with the right support in place.

7. Training and Public Education
Too many professionals - doctors, nurses, social workers - are untrained in the basics of surrogacy. Nationally funded training and public education would improve the experience for everyone and help shift public perception away from outdated or sensationalised views.

Final Words
Surrogacy, when done ethically, is an act of generosity, trust, and love. But our current laws make it far more difficult than it needs to be, especially for those already carrying heavy emotional or physical burdens.

As a surrogate, I offer my body and time to help a family who have already shown they are capable and devoted parents. But that offering is made within a system that often feels built to delay, doubt, or devalue us all.

The ALRC now has a unique opportunity to change this. Please create a legal framework that respects surrogates, supports parents, protects children, and reflects modern Australia.

Thank you for considering this submission.

Warm regards,
[redacted]
Intended Surrogate
Victoria