Australian Law Reform Commission: I am making this submission to contribute to the Australian Law Reform Commission's review of Australian surrogacy laws, policies, and practices.

Name: [redacted] & [redacted]

We have experienced surrogacy as: Intended Parents

I was 25 years old when I was diagnosed with cervical cancer. Treatment required a radical hysterectomy, leaving me unable to carry a child. In 2022, my partner [redacted] and I began our surrogacy journey with our dear friend and surrogate, [redacted]. In [redacted] 2025, [redacted] gave birth to our daughter, [redacted] via emergency caesarean section. Devastatingly, [redacted] passed away 12 hours after birth due to cord strangulation in utero. She was revived twice after delivery but passed away in my arms in the NICU at [redacted].

1. Positives of Surrogacy

- We are incredibly grateful that surrogacy is legally available in Australia.
- Our surrogate, [redacted] and her family became an integral part of our lives. The experience deepened our friendship and brought us closer than we could have imagined.
- Pre-surrogacy counselling was invaluable. It opened conversations and highlighted situations we hadn't previously considered. Maintaining this as a requirement is essential.
- We received excellent care from several doctors and nurses throughout our journey. Their kindness, empathy, and professionalism were deeply appreciated.
- Australia's access to world-class IVF and maternity healthcare facilities is something we do not take for granted.
- The NICU staff at [redacted], in particular, showed exceptional compassion and professionalism during our most painful moments.

2. Difficulties We Faced as Intended Parents

- We were often treated unfairly both the healthcare system and some individuals within it.
- We did not have the same rights as we would have if I hadn't been forced to undergo a hysterectomy due to cancer. Despite [redacted] being our baby's father, and me the mother, we were denied recognition in key medical and legal settings.
- The financial burden of surrogacy is extreme. Every step — from counselling, legal agreements, and IVF procedures to medical specialist fees — costs thousands of dollars.

Specific Examples of Difficulties:

- A clinic secretary denied our request for medical results on three separate occasions following our surrogate's miscarriage, despite our surrogate giving verbal consent and our legal agreement clearly stating that all parties waived their rights to medical privacy and agreed to share information. Only after I sent a firm email outlining our legal rights did she release the results.
- [redacted] and I were not legally recognised as the parents of our daughter, [redacted]. As a result, our surrogate's husband ([redacted]) had to leave her after emergency surgery to travel to the new hospital to give medical consent for our baby, despite him having no genetic link to our daughter. [redacted] did this willingly and [redacted] demanded he leave her to avoid any delays in treatment for our baby girl. I can't tell you how guilt ridden I was to know I was taking her husband away to give consent for treatment for our baby, instead of staying to care for her. It was so awful and unnecessary.
- We were charged additional fees that are not applied to patients undergoing standard IVF treatments, such as a fee for a surrogacy-specific information session with nurses — something typically included in regular treatment costs.
- I was unable to access my private health insurance cover — despite having comprehensive maternity and pregnancy coverage — to help fund our stay in the private hospital where our fertility specialist worked.
- The head nurse of the maternity ward at that private hospital informed us we had two options: pay $7,500 upfront for a five-night stay or go home each day without our baby despite the fact I had induced lactation and would be breastfeeding. Our surrogate offered to share a room with me or suggested that our baby be discharged early to us (provided our bub was well enough), but both options were refused. The nurse

insisted we were not the legal parents and I was not the surrogate's partner, and therefore had no entitlement to take our baby home without our surrogate or stay with her in hospital. It wasn't until I insisted on escalating the issue that the decision was reconsidered.

- That same nurse ignored me during polite conversation and, in front of me, said to our surrogate, "Don't worry, we will take excellent care of you and that beautiful baby of yours." I remained composed and ignored the comment (despite it being deliberate and deeply distressing). My surrogate, [redacted], was so upset by the treatment I received that she offered to help us change hospitals despite being only two weeks away from birth.
- People who are experiencing unexplained infertility — with no known medical condition — are entitled to Medicare rebates for all IVF treatment. Yet, because I had a medically necessary hysterectomy due to cancer and now require a surrogate, I am excluded from this same support. I don't begrudge others receiving help — but please don't deny me the same assistance when I have no chance of ever carrying a child myself.

What Needs to Be Improved in Surrogacy for Australians — Our Experience

1. **Extend Medicare rebates to intended parents undergoing IVF treatments and embryo transfers via surrogacy.**
   This would remove any confusion around eligibility for Medicare rebates and ensure equitable access to fertility treatments for those with the greatest medical need. We believe IVF clinics should also be required to bulk bill surrogacy cycles.
   Why: Surrogacy is only available to people with a genuine medical reason — in my case, I required surrogacy after cancer treatment. Out of approximately 300,000 babies born each year in Australia, only 230–250 are born via surrogacy. Families like ours have already experienced immense loss. We should be supported, not further disadvantaged.

2. **Introduce a Medicare number for intended parents to facilitate hospital admission and enable access to private health insurance during the birth and postnatal care of our child.**

   Why: This would allow intended parents like [redacted] and me to use our private health insurance during the birth of our child. Because I wasn't recognised for billing purposes, we were told we'd need to pay $7,500 upfront or go home without our baby each day. It was devastating — and entirely avoidable.

3. **Strengthen regulations to prevent fertility clinics from charging unauthorised fees or requiring unnecessary, costly appointments.**
   Why: We were charged an additional $680 for a 30-minute nurse consultation — a session that is free for all other IVF patients. We were also told we'd be charged $700–$1,200 in cancellation fees if we had to stop an IVF cycle early, even if no services had yet been provided. These practices feel unethical and exploitative, especially when families are already facing immense financial and emotional pressure.

4. **Ensure intended parents are recognised as the legal parents and listed on the birth certificate from birth.**
   Why: This reflects the truth of the parenting relationship from day one. It would reduce delays, confusion, and emotional strain during an already intense and emotional time in hospital and legal systems. It would prevent all the deeply distressing situation I have mentioned where legal parentage was an issue.

5. **Introduce a standardised, government-provided legal agreement template for altruistic surrogacy.**
   This should be freely available, editable, and able to be signed by both intended parents and the surrogate without the need for an actual lawyer as this legal agreement isn't enforceable anyway.
   Why: It would save intended parents thousands of dollars. Surrogacy legal agreements in Australia are not legally enforceable, yet families are forced to pay thousands of dollars for lawyers to draft them using almost identical templates. We were forced to pay $3000 the first time we did surrogacy for a legal agreement. We were then quoted $1,500 for our second legal agreement which we provided them (we literally gave them

our own agreement they had already drafter two years earlier). When our lawyer left the firm partway through, we were asked to pay an additional $2,500 including charges for a hand over and emails of fewer than 40 words simply confirming meeting times. It felt predatory and unjustifiable.

6. **Provide national consistency in surrogacy laws across all states and territories.**
   Why: The laws around surrogacy differ greatly depending on where you live in Australia. This creates confusion, delays, and inequality. A national framework would ensure that all families are treated equally, no matter their postcode.

7. **Mandate surrogacy-specific training for all IVF clinic staff and heads of maternity wards— including reception and administration teams.**
   Why: Many staff lack understanding of surrogacy pathways, the rights of all parties, and the correct terminology. [redacted] and I were often made to feel like we didn't belong or were doing something wrong — as if we were trying to "take" someone else's baby. Training would ensure staff are better equipped to support non-traditional families with empathy and professionalism.