ALRC Submission

My husband and I are in a same-sex relationship and have a child born through a commercial surrogacy agreement, in the United States in 2024.

We have always wanted to be parents and discussed this early on in our relationship. When exploring potential paths to parenthood, we decided surrogacy would be the best option for us, and our preference would have been to do this in Australia to be close to our family. However, given we currently live overseas and due to the fact there are only a small number of women who are willing to be altruistic surrogates, we decided to explore markets overseas.

We ultimately decided to pursue surrogacy in the US because the process is well regulated and there are laws in place protecting both Intended Parents and surrogates. We were confident that everyone involved in the process, in particular our amazing surrogate, was well informed, fully consenting and in no way coerced into the surrogacy arrangement, especially as all parties had been through psychological screening prior to the agreement being confirmed. Both parties are required to have separate legal counsel.

Importantly, our surrogate received monthly payments and the surrogacy fee was not dependent on her giving birth to a healthy baby. We have heard of other countries where the practices are exploitative and women are taken advantage of, particularly when they are from lower socio-economic backgrounds or third world countries.

In the US, the legal process allowed us to receive a pre-birth court order, identifying us as our daughter's parents in the hospital. This also provided protections for the surrogate, ensuring that she was not going to have any risk of becoming the parent of the child.

Our surrogate went into labour a month early, and we had to rush to the US for the birth. We were very fortunate to arrive just in time for our daughter's birth, however if the surrogacy took place in Australia, we would have been able to be closer to her throughout the pregnancy and the lead up to the birth.

We are hoping to see changes to the surrogacy laws in Australia, and that commercial or compensated surrogacy can be legalised, so Intended Parents do not need to head overseas to engage in surrogacy. This would allow for surrogates to receive compensation for the time and effort (where all other parties (lawyers, IVF clinics etc) receive compensation), which would hopefully allow for more women to become surrogates.

There certainly must be strict governance and controls in place to ensure that women are not exploited, and that vulnerable people cannot be taken advantage of. But with

comprehensive psychological screening, clear legal protections for surrogates and IPs and court supervision, this model would be attractive for both potential surrogates and stop IPs heading overseas to markets where there are potential risks and exploitative practices taking place.

We would have loved to have completed our journey to parenthood in Australia, but now we just hope that the laws are amended so future IPs can go through their journeys at home, and surrogates can be compensated for their time and effort here, with the right legal protections in place.

As a final point, I do believe it is important for Australia to develop a framework to fully recognise overseas surrogacies. The Australian citizenship and passport were quick to be obtained and I applaud the Ministry of Immigration for their efficiency in this regard. However, I would hope that when I return to Australia with my child, my husband and I will be able to have our full parental rights recognised via a streamlined process. This is in the best interest of new families to be formed in the future where surrogacy has occurred overseas, but certainly in the best interest of existing families, and most importantly the children.