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11th 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 an intended parent, and I have been looking into Surrogacy within Australia & overseas for the last 5 years.

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?
- What parts of your experience were negative?
- What could be improved and how?

My name is [redacted], and I have been on a challenging and emotionally taxing fertility journey since 2015. At the time, I was 38 years old and my husband was 34. Over the past decade, I have undergone extensive fertility treatment and explored surrogacy in Australia with great hope—but repeatedly encountered systemic barriers, poor clinical advice, and significant delays that have ultimately led us to pursue international surrogacy as a last resort.

IVF Journey and Initial Exploration of Surrogacy
We began IVF treatment in Darwin with [redacted] in 2015, and after 10 unsuccessful embryo transfers and no clear medical explanation for our implantation failure, I raised the possibility of surrogacy with our fertility specialist around 2020. At the time, altruistic surrogacy was not legally available in the Northern Territory, and I was advised not to consider it. The doctor described it as "too complex, too costly, and not worth pursuing." I was left disheartened and felt unsupported at a time when surrogacy seemed like the most viable path forward.

Interstate Exploration and Loss of Viable Options
In 2021, we considered relocating interstate for treatment and had a potential surrogate—my sister—willing to help. However, following a medical assessment, she was diagnosed with adenomyosis. The fertility specialist at [redacted] discouraged us from proceeding with her, instead assuring us he could help me achieve a pregnancy myself. We placed our trust in his expertise and used our remaining two embryos (eggs from a known donor my cousin). Unfortunately, neither transfer was successful, leaving us emotionally and financially depleted, and back at the beginning.

We then sought a second opinion interstate and travelled to Queensland, where we commenced a second round of donor eggs through a different clinic. Following one final unsuccessful embryo transfer to myself, we resolved to use the remaining embryos through surrogacy.

Multiple Potential Surrogates Turned Away
Returning to [redacted], we had a second potential surrogate—a healthy and fit 50-year-old friend. However, the clinic declined to proceed based on their internal age policy (no surrogates over 51), advising us that by the time all approvals were completed, it would no longer be worthwhile. Once again, we were persuaded to continue trying to carry a pregnancy myself. We endured further failed transfers.

Only after being referred to a different doctor within the same clinic were we told that both of our previous surrogate candidates *could* have been suitable, with special approval. By then, we had only one embryo left and no remaining donor eggs to look at another round. The cost, time, and emotional toll required to pursue surrogacy with just one embryo no longer seemed feasible. We were devastated—feeling as though we had lost years of opportunity due to misguided clinical advice.

Investigation of International Options
Between our first and second donor rounds, we explored international surrogacy and engaged with Growing Families, who at the time were recommending Ukraine. While we didn't proceed due to a second donation offer from our original donor, the outbreak of war in Ukraine soon closed that path permanently.

In 2024, a third potential surrogate (a close friend) generously offered to help. However, following routine medical screening, she required surgery and could not proceed. We had by this stage secured donor eggs from Ukraine via Central IVF, which are now stored in Adelaide, but we are unable to create embryos until we have a confirmed surrogate.

Efforts to Find a Surrogate in Australia
Determined to pursue surrogacy within Australia, we have taken every possible step to find a match. We joined SASS (Australian Surrogacy Support), shared our story with friends, family, and social networks, and participated in online forums, Facebook groups, and Zoom catch-ups.

I have actively contributed to building awareness of surrogacy within the Northern Territory, where the network remains limited. Despite these efforts over the past seven months, we have not received a single expression of interest. At 48, time is not on our side, and we cannot afford to wait years for a potential surrogate.

Conclusion: Turning to International Surrogacy as a Last Resort
After three unsuccessful surrogacy attempts with willing Australian candidates, repeated discouragement from fertility specialists, and the absence of a coordinated national support system, we are now actively exploring international surrogacy options. We are currently engaging with agencies in Georgia and Colombia, as we feel this is our only remaining path to parenthood.

Our experience illustrates the deep structural challenges that exist within Australia's altruistic surrogacy system: inconsistent clinical advice, restrictive internal clinic policies, lack of public education and support, and legal frameworks that vary significantly by state and territory. Unless an individual has a willing family member or friend who is medically cleared and meets all eligibility requirements, the current system makes it extremely difficult—if not impossible—for many intended parents to move forward.

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?

We have always believed in being open and honest with our child about the circumstances of their birth. Transparency is vital in helping a child understand their story and develop a strong sense of identity and belonging.

With this in mind, we support the inclusion of information about the egg and/or sperm donor and the surrogate. While we believe the intended parents should be listed as the legal parents on the birth certificate, there could be merit in including the surrogate and/or donor's names in a supplementary section—similar to how name changes are recorded on the back of a birth certificate.

In cases where the donor is unknown, it should still be noted that the child was donor-conceived. Importantly, at the age of 18, children should have the right to access available information about their biological origins, particularly for medical reasons or personal identity.

Ultimately, facilitating access to this information supports the child's best interests, both medically and emotionally, and upholds their right to understand where they came from.

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?

There are several significant barriers that make it difficult for intended parents to pursue surrogacy in Australia. These challenges often leave people feeling overwhelmed, isolated, or forced to explore international options. The key barriers include:

- **Misinformation or limited knowledge among fertility specialists**
  Many fertility specialists are not well-informed about the legal surrogacy pathways

available in Australia, or they dismiss it too early as an option. This can delay families from exploring a viable path forward or result in poor advice.

Solution:

- Ensure clinics provide fact-based, non-judgemental information early in the IVF journey, especially after repeated implantation failures.

- **Uncertainty and lack of transparency around costs**
  Intended parents often face confusion about the financial aspects of altruistic surrogacy, including reimbursable expenses and legal/medical costs.

Solution:

- Develop standardised national cost guidelines and financial planning tools for surrogacy arrangements.
- Provide access to independent financial counselling as part of the process.

- **Lack of access to potential surrogates if not within one's existing network**
  Finding a surrogate is one of the most daunting challenges, especially for individuals without a willing friend or family member. There is no formal or legal mechanism in most states to connect intended parents with potential surrogates.

Solution:

- Establish state and/or national surrogacy registers or matching programs that operate within legal frameworks.
- Establish agencies (like they have Internationally) to help connect IP's & Surrogates and help manage the process.

- **Privacy concerns**
  Many intended parents are hesitant to share their personal fertility struggles publicly, especially on social media, which is currently one of the only informal ways to find a surrogate.

Solution:

- Create private, professionally facilitated pathways for intended parents and surrogates to connect.
- Promote awareness campaigns that normalise and destigmatise surrogacy in broader society.

- **Perceived legal and procedural complexity**
  The legal and emotional process of surrogacy is often seen as confusing, slow, and inconsistent across states, deterring people from pursuing it.

Solution:

- Harmonise surrogacy laws across all Australian jurisdictions to create a consistent national framework.

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

Yes, there should be clear and consistent eligibility criteria for surrogacy arrangements in Australia. While some criteria already exist, they vary significantly between fertility clinics and across states and territories, leading to confusion and inequality in access.

Australia would benefit from a nationally consistent framework, similar to international standards, to ensure all parties involved are adequately supported and protected. Key eligibility criteria should include:

- **Psychological Assessment** – to ensure all parties (intended parents and surrogates) are mentally and emotionally prepared for the surrogacy journey and understand the implications.
- **Medical Screening** – to confirm the physical suitability of the surrogate and address any medical considerations for both the surrogate and the intended parents.
- **Independent Legal Advice** – to ensure informed consent and a full understanding of the legal responsibilities and rights of all parties.
- **Age and Health Guidelines** – to help minimise risks to the surrogate and the baby.

Establishing nationally consistent criteria would help build trust in the surrogacy process, reduce barriers, and improve outcomes for families formed through surrogacy.

9.Should surrogacy agreements be enforceable?

Yes, surrogacy agreements should be legally enforceable. Having enforceable agreements provides clarity and assurance for both Intended Parents (IPs) and Surrogates. It helps protect the rights and responsibilities of all parties involved, supports informed decision-making, and ensures that expectations are clearly defined and respected throughout the process. Legal enforceability also promotes trust and stability in surrogacy arrangements, while reducing the risk of conflict or uncertainty during and after the pregnancy.What are the gaps in professional services for surrogacy in Australia?

13.How should surrogacy advertising be regulated?

Surrogacy advertising should be carefully regulated through a national framework to ensure safety, transparency, and ethical standards for all parties involved. I believe there should be a clear, consistent process facilitated by accredited professional organisations to help match Intended Parents (IPs) with potential surrogates in a structured and supportive environment. This could include government-endorsed agencies, fertility clinics, or non-profits with expertise in surrogacy.

At the same time, flexibility should be maintained for those who wish to proceed with a known surrogate and manage their own pathway, provided that all legal, medical, and psychological requirements are met.

Unregulated or informal advertising—such as social media posts or online classifieds—can pose significant risks, including coercion, misinformation, or exploitation. Therefore, public advertising for surrogates should be allowed only through approved platforms that adhere to strict ethical and legal guidelines.

Additional ideas to consider:

- Create a national surrogacy register or matching platform managed by a trusted body to safely connect IPs and surrogates.
- Require independent legal advice and psychological screening before any advertising or matching occurs.
- Prohibit any form of commercial advertising or financial inducement in line with Australia's altruistic surrogacy model.
- Provide public education campaigns to raise awareness about safe and legal pathways for surrogacy, reducing reliance on informal networks or risky channels.

By regulating advertising through formal and supportive channels, we can better protect all parties involved and promote ethical, informed surrogacy arrangements across Australia.

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

The process could be significantly improved through greater structure, transparency, and third-party oversight. A national register or standardised guideline outlining what constitutes "reasonable expenses" would help create consistency and clarity for both Intended Parents (IPs) and surrogates. This register should include common pregnancy-related costs such as medical appointments, travel, maternity clothing, lost income, and psychological support.

A monthly allowance model would also help to remove the discomfort often experienced around asking for or offering money. As an IP, I found it incredibly difficult to navigate these discussions, especially not having gone through pregnancy myself. I didn't know what to expect in terms of costs, nor what would be considered reasonable. In my own experience, the anticipated expenses varied widely—ranging from $30,000 to $100,000—depending on the expectations and personal circumstances of each potential surrogate. These differences created uncertainty and, at times, tension.

Discussing money was one of the most confronting aspects of the process. In one case, the conversation around reimbursement almost ended the arrangement before it had begun, putting strain on the relationship. Having a third-party organisation coordinate this process—with upfront, itemised, and transparent cost outlines—would alleviate this burden and reduce the emotional load on both parties.

Using an escrow account managed by a trusted entity would also ensure transparency and trust, while meeting audit and legal requirements. Funds could be securely held and released in line with pre-agreed milestones, providing reassurance to the surrogate and financial certainty to the IPs.

In summary, clearer definitions, third-party coordination, and financial structures like escrow accounts would help create a more ethical, supportive, and emotionally safe environment for all involved in the surrogacy journey.

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?

Yes, I support both compensated and commercial surrogacy.

Supporting someone through pregnancy is a significant physical, emotional, and lifestyle commitment. I believe that recognising this through appropriate compensation does not detract from the altruistic nature of surrogacy—it simply acknowledges the time, effort, and personal sacrifice involved. Surrogates must still be motivated by the right reasons, but compensation offers a fair and respectful way to value the contribution they are making.

IVF clinics, legal professionals, and other stakeholders often receive considerable financial remuneration throughout the process. Yet the person doing the most—carrying the child—often walks away with little or nothing. A well-structured compensated or commercial model could allow surrogates to improve their financial circumstances—whether that's contributing to a home deposit, supporting their own children's education, or enjoying a well-earned family holiday. This approach may also encourage more women to consider becoming surrogates, helping to address the shortage that currently exists in Australia.

As an Intended Parent (IP), I personally find the idea of commercial surrogacy appealing because it offers a regulated, transparent, and professionally coordinated pathway. Managing the process independently is complex, unregulated, and extremely challenging—particularly if you do not already know someone who can be a surrogate. These limitations are what drive many Australians to seek surrogacy overseas, where they are willing to pay for a smoother, safer, and more predictable journey.

I would prefer to access that same level of support and certainty here in Australia and would be willing to pay more for a regulated, commercial surrogacy service that ensures the wellbeing of all parties involved.

17.If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented?

As intended parents who support commercial surrogacy, we believe introducing a regulated, ethical commercial framework could significantly improve the surrogacy experience for all parties involved. The current altruistic-only model often places enormous emotional, logistical, and financial strain on both intended parents and surrogates. A well-designed commercial system would bring clarity, consistency, and fairness, reducing stress and uncertainty.

Implementation could include:

- **Clear National Legislation**: A unified national framework should replace the current inconsistent state-by-state laws. This would avoid confusion and ensure all parties are protected under the same legal standards.
- **Regulated Agencies and Professionals**: Commercial surrogacy should be facilitated through licensed, accredited agencies and professionals (lawyers, fertility specialists,

psychologists, and coordinators) to ensure ethical practices, proper education, and appropriate screening of all parties.

- **Standardised Compensation Framework**: A clear, transparent schedule of allowable compensation should be established to fairly recognise the surrogate's time, effort, and physical/emotional toll—without commodifying the process. This would help eliminate the awkwardness and uncertainty around reimbursements and remove the burden of negotiation between parties.
- **Mandatory Independent Legal and Psychological Support**: All parties should receive independent advice and ongoing counselling to ensure informed, consensual participation and to foster respectful, supportive relationships throughout the journey.
- **Binding Surrogacy Agreements**: Commercial surrogacy arrangements should include enforceable agreements that provide security for both surrogates and intended parents, while still allowing appropriate legal safeguards and flexibility for exceptional circumstances.
- **Central Oversight Body**: A national body could oversee compliance, resolve disputes, and ensure ethical standards are upheld. This would provide transparency and accountability, building trust in the system.

Ultimately, commercial surrogacy—when properly regulated—has the potential to create a more seamless and accessible path to parenthood, while respecting and supporting the women who make this possible through their generous contribution.

Thank you for considering my submission.

Yours Faithfully,

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