Submission to the ALRC: Inquiry into Australia's Surrogacy Laws

From a Same-Sex Intended Parent Expecting a Baby via Surrogacy in August 2025

To the Australian Law Reform Commission,

My name is [redacted], and I am a same-sex intended parent. My partner and I are expecting the birth of our baby via surrogacy this August. It is a joyful, deeply meaningful chapter in our lives - but one that has come with legal complexity, emotional toll, and unnecessary obstacles.

We are submitting this response because we believe surrogacy in Australia can - and must - be reformed to better support all families, including LGBTQ+ families like ours, and the incredible women who carry children as surrogates.

Our Journey to Surrogacy

As a male same-sex couple, surrogacy is one of the few paths available to us to have a biologically related child. We have been fortunate to find a generous and compassionate surrogate, but navigating the legal, ethical, and logistical aspects of surrogacy has been incredibly challenging - even when all parties are fully informed, consenting, and aligned.

Over the last 12 months, we have not encountered one single person who hasn't been completely overjoyed about our news, and treated it exactly like any other news of two loving people becoming dads. So it only makes sense for the law to reflect this - we live in a modern Australia, with modern families, with whom the vast majority of just want the opportunity to be loving parents.

Although our baby is due in just weeks, we will not be recognised as legal parents at birth. Instead, we must wait for a post-birth court process to obtain a parentage order - despite the fact that we've been involved in every decision, every medical appointment, and have prepared every part of our child's life with love and intention.

Our wonderful surrogate has wanted to help another couple start a family since she was 17 years old - this is not something she has considered lightly and says herself that even prior to conception, this child has felt like mine and my partner's baby.

If we are honest, as much as this experience has been amazing in some ways, it has been extremely emotionally, physically and financially difficult, and we are not sure that we could go through it again.

Challenges Under Current Laws:

LGBTQ+ intended parents, like many others pursuing surrogacy, face significant hurdles in Australia:

- Legal parentage delays leave intended parents in limbo and deny children legal clarity from birth.
- Inconsistent access across states and territories creates confusion and inequality.
- Criminalisation of international surrogacy remains a threat for families unable to find a local surrogate.
- Uncertainty around reimbursable expenses creates anxiety due to a lack of clear, enforceable national guidance.
- No centralised support or registry exists for long-term identity access or education.

Link to ALRC Reform Themes

These issues touch directly on the ALRC's core areas of inquiry:

- Access and eligibility
- Parentage
- International arrangements
- Reimbursement
- Human rights and child welfare

Recommendations for Reform

To create a surrogacy framework that is safe, ethical, and inclusive for all, I urge the Commission to recommend:

1. A national surrogacy framework that applies consistently across all states and territories.
2. Automatic legal recognition of intended parents at birth.
3. Decriminalisation of international commercial surrogacy, with regulation and safeguards.
4. National clarity around reimbursable expenses.
5. A national registry for donor and surrogate identity access.
6. Investment in professional training and public education.

Closing

My partner and I are about to become parents. Our child is already deeply loved, deeply wanted, and long-awaited. But we should not have had to navigate outdated laws, state-by-state contradictions, and avoidable legal delays just to get here. We have a beautiful, trusting relationship with our friend and surrogate, her husband and her children - one that has been documented in multiple counselling appointments, dinners, family events, coffee dates etc. We shouldn't be made to feel as though our journey to parenthood is something to feel guilty for, or something that requires so many loopholes needing to be jumped through- but that's exactly what it has been.

Reforming surrogacy laws is not just about policy - it's about real families, real children, and the fundamental human right to create family with dignity and support.

We urge the Commission to recommend a national, inclusive, and child-centred surrogacy framework that respects the diverse ways Australians build families today.

Thank you for the opportunity to contribute to this important work.

Sincerely,

[redacted]

[redacted]

June 2025