Submission to the Australian Law Reform Commission – Review of Surrogacy Laws
By: [redacted]
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1. Introduction: Our Family, Our Reality

I am a proud same-sex parent of a vibrant four-year-old daughter, born through altruistic surrogacy here in Australia. My partner and I are now expecting our second child through an altruistic international surrogacy arrangement — a path chosen after years of navigating complex, inconsistent, and often exclusionary domestic laws.

Like many LGBTQ+ families, we've faced substantial legal and emotional hurdles simply to build the loving family others can take for granted. Our experience spans both the Australian and international surrogacy systems and highlights urgent areas in need of reform.

This submission aims to give voice to families like mine — loving, intentional, and deserving of equal legal recognition and protection.

2. Key Challenges for LGBTQ+ Families Under Current Laws

Unequal Access and Eligibility:
Despite increasing societal acceptance, access to surrogacy for same-sex couples in Australia remains inconsistent and inequitable. State-based laws vary widely: in some jurisdictions, same-sex couples can legally pursue altruistic surrogacy; in others, eligibility is more ambiguous or practically inaccessible due to barriers like mandatory state residence or lack of willing local surrogates.

This patchwork of rules means that a same-sex couple in Victoria may face a very different process than one in Queensland or Western Australia — even though our families share the same love and commitment.

Legal Parentage Delays:
In Australia, even when a surrogacy arrangement is legal and ethical, intended parents are not automatically recognised as the child's legal parents. We were required to apply for a parentage order months after our daughter's birth, a process that left our parental status legally uncertain during some of her most vulnerable early weeks.

This delay is not just a bureaucratic hurdle — it impacts access to healthcare, decision-making rights, school/daycare enrolments and emotional wellbeing. No parent should have to prove they deserve to be legally recognised for a child they planned, loved, and brought into the world with consent from all involved.

Criminalisation and Stigma of International Surrogacy:
Because of limited domestic options and a lack of national coordination, many same-sex couples — including us — turn to international surrogacy - either altruistic in our case or commercial for other parents. But in some states, such as New South Wales and Queensland, international commercial surrogacy is criminalised, even if arrangements are ethical, transparent, and well-regulated in the country of birth.

Australia's approach to international surrogacy is highly inconsistent. In NSW, Queensland and the ACT, it is a criminal offence for residents to enter into commercial surrogacy arrangements overseas, exposing same-sex and infertile couples to potential prosecution for seeking to build a

family, often through the only path available to them. Other states do not criminalise international commercial surrogacy, but none automatically recognise overseas parentage, forcing families through costly, uncertain court processes to secure their child's legal status. This patchwork approach undermines children's rights to security, identity and non-discrimination.

This creates fear, stigma, and a chilling effect on families, who are attempting to do what is necessary to grow our families safely and with integrity. In addition, many families are exploited overseas through agencies and service providers that charge significant fees with low to no oversight or regulation.

Lack of National Standards on Reimbursement and Donor Identity:
We were fortunate to work with an altruistic surrogate (family member) who felt emotionally supported. But navigating what expenses were "reasonable" for reimbursement was unclear and stressful. There is no national guideline, which can leave surrogates unprotected and intended parents unsure.

Similarly, while we will always have strong ties with our surrogate and plan to be open with our children about their origins, there is no consistent national donor/surrogate registry to support children's rights to identity in the long term.

3. Aligning Our Experience with ALRC Themes

The ALRC Issues Paper rightly identifies several key themes — **access**, **eligibility**, **parentage**, **reimbursement**, **international surrogacy**, and **human rights**. Our family's experience intersects with each:

- **Access and Eligibility**: A national framework must include and support all family types, including LGBTQ+ people, and remove geographic inconsistencies and discriminatory barriers.
- **Parentage**: Legal recognition should reflect intention and consent at birth, not rely on post-birth court processes.
- **Reimbursement**: Surrogates deserve fairness, clarity, and dignity in how their expenses are recognised.
- **International Surrogacy**: Current criminalisation policies fail to reflect the lived reality of families and can breach children's rights to protection and non-discrimination. The laws also fail to reflect the legal and regulatory frameworks of other countries who have more robust surrogacy laws in place.
- **Human Rights**: All children, regardless of how or where they are born, deserve equal legal recognition, identity access, and security. So do their parents.

4. Recommendations

I support and strongly encourage the ALRC to recommend the following reforms:

1. **A National Surrogacy Framework**
   Establish a uniform, inclusive national legal framework for surrogacy that treats all family types equally and eliminates state-by-state discrepancies.

2. **Automatic Legal Parent Recognition at Birth**
   Intended parents — where all parties have given informed consent — should be legally recognised as parents from the moment of birth, without delay or court intervention for both domestic and international arrangements.

3. **Decriminalisation of International Surrogacy**
   Repeal laws that criminalise international surrogacy arrangements. Instead, focus on regulation, ethical safeguards, and protecting children's rights — not punishing families.

4. **Clear National Rules on Reimbursable Expenses**
   Develop nationally consistent, transparent guidelines on what expenses can be lawfully reimbursed to surrogates, to reduce ambiguity and protect both surrogates and intended parents.

5. **A National Registry for Surrogacy and Donor Identity**
   Create a central registry that ensures children born through surrogacy or donor conception can access information about their origins in an age-appropriate and secure manner, if and when they choose.

6. **Professional Training and Public Education**
   Provide training for judges, social workers, fertility professionals, and legal practitioners to support consistent, non-discriminatory application of surrogacy laws. Broader public education campaigns would also help reduce stigma and misinformation.

5. Conclusion: Let's Build a Better Future for Our Kids

My children — like thousands of others across Australia — were deeply wanted, intentionally conceived, and lovingly raised. But the law hasn't kept pace with reality. Our surrogates, donors, and families deserve dignity, clarity, and protection.

This inquiry is a historic opportunity to create a fair, ethical, and nationally consistent system that reflects modern family life and upholds the rights of every child — no matter how they came into the world.

Thank you for considering my submission.

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