[redacted]

[redacted]

[redacted]

[redacted]

28 June 2025

The Commissioner Australian Law Reform Commission PO Box 209
Flinders Lane
Victoria 8009

Email: surrogacy@alrc.gov.au

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 spent the past several years navigating fertility treatments and, most recently, attempting to pursue international surrogacy due to the lack of options available domestically.

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.

If you or someone close to you has had personal experience of surrogacy, please describe:

What parts of your experience were positive?
The professionalism and compassion from our overseas clinic and fertility specialist (Dr Melissa Cameron) have been overwhelmingly positive. We found the process in Mexico to be clearly structured, communicative, and supportive.

What parts of your experience were negative?
Our primary challenge has been with the domestic handling of embryo release. Despite clear guidance from the Department of Health on self-certification and international export, our fertility clinic in Victoria (Melbourne IVF) has refused to release our embryos, citing concerns under the Assisted Reproductive Treatment Act. This has caused significant delays, emotional distress, and has left us with no domestic path forward. Throughout the whole process, Melbourne IVF have lacked structure, professionalism and clarity on the whole process. It feels like it is run solely as a for-profit business and not as a person's journey that requires humanity and compassion.

What could be improved and how?
Nationally consistent legislation and a clear, rights-based framework for international embryo transport would reduce ambiguity. Clinics should not have the discretion to block exports when patients act within the bounds of federal guidance. Federal laws need to acknowledge that current laws are out-dated and provide no clear framework for finding a surrogate and the arrangements that need to be put in place so that all parties feel comfortable and equal in the arrangement.

What reform principles should guide this Inquiry?
Clarity, consistency, equity, and the best interests of the child. Surrogacy law should reflect modern family formation realities, including cross-border collaboration. Discrimination based on location or clinic policy must be eliminated.

What do you think are the key human rights issues raised by domestic and/or international surrogacy arrangements and how should these be addressed?
The right to find a family, equality before the law, and the best interests of children are central. Restrictions on embryo transport and overly narrow definitions of altruism violate these principles when they prevent people from accessing ethical and legal family-building options.

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?
Children should have access to the identity of their surrogate and gamete donors (if applicable), as well as the context of their birth. This should be facilitated through mandatory records held by state or federal agencies, with appropriate age and consent provisions.

What are the main barriers that prevent people from entering into surrogacy arrangements in Australia, and how could these be overcome?
The main barriers are lack of available surrogates, state-by-state legal inconsistencies, and a highly restricted interpretation of what constitutes altruism. National legislation and better education/support for potential surrogates could help.

Should there be eligibility criteria for surrogacy? If so, what should those requirements be?
Yes. There should be reasonable criteria ensuring medical need and informed consent, but without discriminatory exclusions based on marital status, already having had children, sexuality, or income.

Are there any current requirements which should be changed or removed?
The prohibition on compensating surrogates beyond direct expenses should be

reconsidered. Reimbursement models should reflect the time, risk, and commitment of surrogates.

Are there any requirements for a valid surrogacy agreement you think should be added, removed or changed?
Agreements should be standardised nationally and allow for reasonable surrogate allowances, with built-in flexibility for cross-border arrangements.

Should surrogacy agreements be enforceable?
They should be enforceable in relation to financial and procedural commitments, while leaving room for surrogates to withdraw consent for transfer or continuation of pregnancy within ethical limits.

What process requirements should be in place for surrogacy arrangements?
Independent legal advice, counselling for all parties, medical screening, and an enforceable pre-birth parentage framework.

What are the gaps in professional services for surrogacy in Australia?
There is limited coordination between legal, medical, and support services. Few lawyers specialise in surrogacy law, and clinic knowledge varies widely.

What is the best way for professional services for surrogacy to operate?
Through integrated care teams with national training standards and a centralised referral system.

How should surrogacy advertising be regulated?
It should be allowed under strict guidelines that ensure transparency and ethics, rather than banned entirely.

What entitlements, if any, should be available to surrogates and intended parents?
Surrogates should receive comprehensive medical cover, psychological support, and financial reimbursement. Intended parents should be entitled to equal parental leave.

How could the process for reimbursing surrogates for reasonable expenses be improved?
Clear national guidelines, a transparent reimbursement framework, and independent oversight would improve this process.

Do you support a) compensated surrogacy and/or b) 'commercial' surrogacy?
Yes to compensated surrogacy. No to exploitative commercial models. A fair compensation model acknowledges a surrogate's time and sacrifice while maintaining ethical boundaries.

If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented?
Through regulated fee caps, licenced surrogacy facilitators, and mandatory legal and psychological screening for all parties.

What are the main problems with the requirements and processes for obtaining legal parentage for a child born through domestic and/or international surrogacy?
Delays, uncertainty, and inconsistent recognition between jurisdictions. The current process often leaves intended parents in limbo.

How could the process for intended parents to become the legal parents of children born through surrogacy be improved?
Pre-birth orders recognising intended parents, based on consent and contract compliance, should be introduced.

What, if any, are the main problems with obtaining the following documents for a child born through international surrogacy:

- Australian citizenship
- An Australian passport
- An Australian visa

Inconsistent processing times, lack of clear guidance, and occasional bureaucratic resistance.

How could the process for obtaining these documents be improved?
A dedicated surrogacy support unit within Home Affairs with set timeframes and clear document checklists.

What is the best way to approach differences in surrogacy regulation between or within jurisdictions?
National harmonisation of surrogacy laws is essential. A federal model law or COAG-style agreement could unify the approach.

Is it appropriate for surrogacy arrangements to be subject to oversight? If so, what is the best approach?
Yes. Oversight should ensure ethics and safety without unnecessarily restricting access. A central independent authority could oversee compliance and reporting.

Should the law have a role in discouraging or prohibiting certain forms of surrogacy?
The law should prohibit exploitative arrangements, but not block ethical, regulated international surrogacy where domestic pathways are unavailable.

Do you think there is a need to improve awareness and understanding of surrogacy laws, policies, and practices?
Yes. Both professionals and the public need clearer, more accessible information.

Do you have any views about the issues we consider to be in or out of scope?
The scope should include embryo export procedures and cross-border recognition of surrogacy parentage orders.

Are there any important issues with regulating surrogacy that we have not identified in the Issues Paper?
The discretion granted to clinics to block embryo release, even with DoH self-certification, poses a major barrier. Greater clarity is needed around their obligations and the limits of clinic authority.

Thank you for considering my submission.

Kind regards,

[redacted]