Submission to the Australian Law Reform Commission
Inquiry: Review of Surrogacy Laws
Response to Discussion Paper (2025)

We are deeply disappointed that the Australian Law Reform Commission's Discussion Paper promotes the removal of so-called "barriers" to surrogacy in Australia, signaling an intention to expand and normalize surrogacy as a large-scale social and economic practice. Rather than critically examining how surrogacy might be reduced, restricted, or ultimately abolished in light of mounting ethical, human rights, and women's equality concerns, the Discussion Paper reads as a blueprint for building a national surrogacy industry.

The overall direction of the Paper should be rejected in its entirety.

Surrogacy is not a neutral or benign "pathway to family formation." It is a practice that depends on the reproductive labor of women, the deliberate separation of children from their mothers, and the increasing commodification of both. The ALRC's framing consistently prioritizes the desires of commissioning adults while marginalizing or erasing the embodied, social, and lifelong impacts on women and children.

We are also concerned by the persistent use of politically sanitized language throughout the Discussion Paper. The near-total absence of terms such as *women* and *surrogate mothers* is not progressive; it is an insult to the women whose bodies bear the physical, psychological, and social risks of pregnancy and childbirth. This linguistic erasure mirrors the material erasure proposed in several of the reforms.

Specific objections

• Proposals 1 and 2 (National Regulator):
We strongly oppose the creation of a National Regulator for surrogacy. Centralizing regulation would entrench surrogacy as a nationally significant and permanent institution, making meaningful reform or restriction far more difficult. Retaining state and territory regulation—however imperfect—at least preserves the possibility of divergence, contestation, and future reform. Elevating surrogacy to the national level cements it as an accepted industry.

• Proposal 3 (Surrogacy Support Systems – SOSs):
This is one of the most dangerous proposals in the Paper. The creation of private, licensed "Surrogacy Support Systems" would embed surrogacy across Australia by establishing a cottage industry of competing businesses tasked with facilitating and legitimizing surrogacy arrangements. This model all but guarantees expansion, professionalization, and commercial capture of a practice that should instead be constrained. It is naïve to believe such entities would operate independently of market incentives.

• Proposal 30 (Birth registration):
Listing commissioning parents as the legal parents at birth amounts to the total erasure of the

woman who gave birth and the full instrumentalization of the child. This proposal treats pregnancy as a mere service and the child as a pre-ordered product. It represents a profound ethical failure and should be rejected outright. It completely denies truth to a child about his or her birth.

• **Proposal 11 (Advertising):**
Allowing advertising for surrogate mothers and egg donors will inevitably increase recruitment pressures on women. Advertising is advertising, regardless of how carefully it is framed. If the goal were genuinely to reduce harm, advertising would remain prohibited. We should be seeking fewer surrogacies, not more.

• **Proposal 14 (Age of surrogate mothers):**
The proposed loophole allowing counsellor approval for surrogates under 25 is extremely concerning, particularly in light of recent developments in Western Australia permitting 18-year-old women to act as surrogates. This exposes young women, potentially still in high school, to exploitation and long-term harm under the guise of consent. Turning surrogacy into a more "available" service for anyone 18 and over risks opening the door to exploitation, especially socio-economically vulnerable young women who may not fully grasp the physical, emotional and long-term implications of surrogacy.

• **Proposal 25(4) (Payments):**
The introduction of monthly "allowances," escrow arrangements, and flexible reimbursements signals a clear drift toward compensated or commercial surrogacy. When read alongside the suggestion that the distinction between altruistic and commercial surrogacy be abandoned, it is evident that commercialization is no longer a hypothetical risk but an intended trajectory.

Governance concerns

We are further troubled by the public conduct of Mr. Stephen Page, a member of the ALRC's Advisory Committee, including his published remarks dismissing the UN Special Rapporteur on violence against women and girls, Reem Alsalem, and misrepresenting her report and methodology. Claims that surrogate mothers were not consulted are demonstrably false, and assertions that surrogacy involves no violence show a profound disconnect from women's lived experiences of pregnancy, birth, and separation. Such misrepresentation and denial of harm are incompatible with the standards expected of an ALRC Advisory Committee member. His continued role undermines confidence in the integrity of this review.

Conclusion

The Discussion Paper points Australia toward the normalization and expansion of surrogacy, including its eventual commercialization. This trajectory should be firmly rejected. The ALRC should reconsider its foundational assumptions and engage seriously with abolitionist and reductionist perspectives that center women's rights, children's rights, and human dignity.

The world is watching, and many Australians remain deeply opposed to the transformation of women's reproductive capacity into a managed national industry.