Lisa Ransome
[redacted]

16th December 2025

The Commissioner
Australian Law Reform Commission
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Flinders Lane
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Email: surrogacy@alrc.gov.au

Dear Commissioner,

SUBMISSION TO THE AUSTRALIAN LAW REFORM COMMISSION
DISCUSSION PAPER 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 a Reproductive Psychologist and registered infertility Counsellor and Approved Supervisor with the Australian Infertility Counsellor's Association (ANZICA), a professional group within the Fertility Society of Australia and New Zealand (FSANZ). Additionally, I am the Victorian Representative for ANZICA, and currently sit on the ANZICA Executive.

I have been working in the fertility space for over 5 years, and have personal experience with infertility, although not surrogacy. During my time working in this area, I have worked with families pursuing both traditional surrogacy and gestational surrogacy through a fertility clinic.

I have read the Discussion Paper and have responded to the relevant questions posed in the paper below, based on my knowledge and experience within the fertility industry as a Reproductive Psychologist & Infertility Counsellor.

I seek that my submission be published as part of the final report and any other discussion papers over the next 12 months.

Proposal 1 - Promoting a national consistent approach through harmonization.

It is well identified and acknowledged the significant variations in Australian State & Territory based legislation regarding surrogacy, with limited harmony between them.

I strongly support uniform Commonwealth legislation which regulates surrogacy across Australia. By creating Commonwealth legislation, and not just "substantial consistency across states and territories" those needing to access surrogacy can be assured the same legislation, and practices govern their treatment and plans irrespective of which state or territory they or their surrogate reside in.

Therefore, I support the Option 1.1 of "Referring powers to the Commonwealth Parliament, followed by the Commonwealth implementing federal surrogacy legislation."

Proposal 2 – Establishing a National Regulator

I support a national regulator being commenced, which would not only include the regulation of surrogacy arrangements and birth, but also look in the future to include all forms of third-party reproduction (donor gamete and embryo treatment, acknowledging this is currently beyond the scope of this review and discussion paper), as surrogacy & donor treatment are frequently utilised together.

While further review is being undertaken into a national donor register, a national surrogacy register should also collect and collate date on the utilisation of own gametes/embryos versus surrogacy arrangement where donor gamete/embryos are also being utilised in addition to surrogacy.

A national surrogacy regulator (and following a national regulator and following a national register recording all third-party reproduction) would allow:

- Consistency across all psycho-social and treatment aspect of surrogacy irrespective of state or territory where parties reside
- Clear requirements of all aspects of assessment, advice and counselling across medical, psychological, and legal requirements for surrogacy for all parties
- Oversight of Surrogacy Support Organisations (SSO), to ensure best practice, and implementation of legislation requirements
- Increased transparency for all parties, including approval, monitoring and support obligations
- Transparency and accountability across our community and country

The responsibility for the administration of the regulatory framework should sit within A National Regulator for Surrogacy, as indicated is preferred by the discussion paper.

Proposal 3 – Permitting and regulating Surrogacy Support Organisations (SSO)

The proposal for the commencement of SSO under national surrogacy legislation is identified as being a positive step forward to streamline linking, and information sharing both for Intended Parents and those open to becoming a surrogate.
Based on the functioning of SSO overseas, it is noted within Australia the role of the SSO should be highly regulated, with requirements to meet required standards and best practice, and to ensure those working within the SSO are not working outside of their scope of practice.

Additionally, in order to ensure best practice services are being provided, psychological services, legal and medical should all be independent of the SSO, and the SSO should not have any pre-arranged relationships with any of the service providers required to complete assessment and support of IP's and Surrogates.

Furthermore, while there has been suggestion of SSO's managing funds between IP's and Surrogates this would be better served also being by an independent service provider, to ensure financial safety for IP's and Surrogates and reducing financial harm.
Tight regulation, assessment and auditing of SSO's should be set on a regular time frame (similar to those of hospital auditing) to ensure SSO compliance with national regulations, and sanctions and/or removal of the SSO as a formal agency if breaches are identified.

Question B: How can we minimise overlap in functions with other organisations, such as assisted reproductive technology service providers?

Through externalization of the psychological and counselling assessment requirement and well as the roll of an SSO, there would be reduced need for clinics to be charging surrogacy management fees.

While the ART service provider would still be able to offer psychosocial supports, its primary function would be on the completion of the required ART cycles, including embryo creation, insemination, frozen embryo transfer, and required medical and physical aspects of the surrogacy treatment process, as is currently managed and supported by the nursing and medical teams.

Approving Surrogacy Agreements

Question C: Do you think it is appropriate for SSOs to approve surrogacy agreements (where they are compliant with the legislative requirements), or should this responsibility sit with a different entity, such as the National Regulator (or alternative)?

Yes, the SSO's appointed under the National Regulator should be able to approve surrogacy agreements which meet all the requirements under the national regulation.

In the event there are concerns raised within the surrogacy agreement and application, or those that do not meet all requirements under legislation, these should be referred to the National Regulator for review and assessment for their suitability to proceed.

Proposal 14 – Minimum age requirements for surrogates and intended parents.

Yes, legislation should require a surrogate to be at least 25 years old. This will reduce the likelihood of coercion to become a surrogate. Additionally, in many states an 18-year-old, while classified as an adult, may still be at school. Setting the minimum age for a surrogate at 25 increases the chances the individual has ceased school and likely formal university education or training. The age of 25 also reduces a power imbalance between the intended parents and potential surrogate.

Intended Parents of 18 years or above is also agreed to.

Proposal 18 – Requirement for Psychological Screening

Independent psychological and psycho-social screening, is noted to be of best practice for couples and individuals coming to surrogacy for family building, as well as for the surrogate, and their partner if applicable.

The current practice of psychosocial and psychological screening within surrogacy varies considerably between states, and harmonization and consistency to determine the social, emotional and psychological suitability to commence a surrogacy arrangement is highly beneficial for all parties. This includes the treating teams for parties to ensure appropriate and timely support is being provided for all surrogacy team members.

Currently, when psychosocial or psychological assessment are completed for those commencing surrogacy, they are encouraged to be completed by a Full Member of ANZICA, with experience in surrogacy support, thus improving knowledge around this unique and specialized form of family building and ART.

Considerations for review of the process of psychosocial and psychological assessment for those commencing a surrogacy agreement, should look for the inclusion of

formalised psychological assessment of all people involved in the surrogacy arrangement.

While clinical psychosocial and psychological assessment are sound, there are also limitations to these. People can under report, not report at all or diminish their presentations. Additionally, some people may present themselves in a better light than truly is the case for them. Through the utilisation of standardized psychometric assessment such as the Personality Assessment Inventory (PAI) or the Minnesota Multiphasic Personality Inventory (MMPI). These psychometric assessments, include scales which can identify over or under reporting, and provide a space for further exploration of concerns within the clinical assessment.

A significant limitation to these assessments, is they are currently only able to be administered by psychologists within the Australian population, reducing the number of ANZICA practitioners who would be eligible to complete surrogacy assessment. However, for best practice and outcomes, the risks of reduced work force need to be weighed with the benefits of outcomes for those coming to a surrogacy arrangement.

While at present, the Fertility Society of Australia, and ANZICA do not have any positions on the utilization of psychometric assessment within this population, however the American Society of Reproductive Medicine (2022) does (see appendix for references). Additionally, there have been a number of papers written over the past 5- 10 years which also provide support for the role of psychometric assessment as part of psychosocial and psychological assessment for surrogacy (please also see references in appendix).

Question D: Should both the surrogate and the intended parent(s) be required to undergo a psychological assessment.

Yes, all people involved in the surrogacy agreement, including the surrogates' partner (if they have one) should be required to complete psychological assessment, both via clinical interview and discussion and formal psychometric assessment (either PAI or MMPI). The assessment process should be completed by the SAME psychologist to ensure full understanding is completed.

Proposal 19 – Requirement for a criminal history check

Option 19.1 is agreed to in this case. There is no longer precedent in any Australian Jurisdiction for criminal records checks to commence any other form of assisted reproductive treatments. Additionally, spontaneous conception between two consenting adults, does not have requirements for criminal checks prior to family building. Placing requirements for criminal record checks, is seen as discriminatory for many people.

Should those commencing a surrogacy agreement wish to complete a criminal record check to share between parties, then this can be completed. Additionally, the SSO and

education prior to commencing a surrogacy agreement, parties should be informed this is something they may choose to seek of their own volition, but not through a legal mandate.

Proposal 21 – Implications Counselling requirements for intended parents and surrogates

Implications counselling must be included for all parties, and must be completed for all parties by the same ANZICA registered professional, with strong encouragement for it to be completed as part of the psychosocial and psychological assessments noted in Proposal 18. Consideration could also be provided to the implications counselling being completed within the ART clinic provider; however, care would need to be taken of reducing overlap to the IP and surrogates between that of the independent assessment and what the ART clinic is offering (as noted in Question B).

Given the depth of requirements for implications counselling, and particularly when partnered with the psychosocial and psychological assessment processes, the minimum required sessions, should be as per the ANZCIA counselling guidelines for surrogacy counselling which is inline with minimum best practice and is as follows:

- Two (2) counselling sessions with the Intended Parents
- Two (2) counselling sessions with the surrogate and their partner
- One (1) joint counselling with all parties present

This should be the minimum of sessions required, with discretion for further sessions if there are concerns raised, or if further exploration of implications and impact is required.

Implications counselling should be inclusive of the surrogate's partner, should the have one, and if not consideration of them being able to have a support person present, to increase knowledge of the process within the broader social support network.

It is agreed that it should be made clear continuation of counselling and psychological support is available through the surrogacy process, as well as into the post-partum.

It is also agreed a report should be completed with the full outcomes of implications counselling, and psycho-social and psychological assessment completed by the ANZICA member, to be provided to all parties, and other professionals who they consent to disclose to, as well as other disclosure requirements under legislation, e.g. SSO.

Question F: Should the surrogate's partner (if any) be required to undergo implications counselling?

Yes, the surrogate's partner, should they have one, must be included in the counselling process. The partner is a significant and major support to the surrogate and needs to be involved.

Additionally, the surrogate's partner can often raise concerns the surrogate may not have considered, as well as their own concerns regarding the surrogacy agreement, including physical impact on their partner, and potential implications on their family, particularly they have their own children.

In the event the surrogate does not have a partner, consideration should be provided for the surrogate to identify another person who is likely to support them through the surrogacy process, pregnancy and post-partum.

Question G: Should there be additional counselling requirements? If so, what should these requirements be? You may wish to consider whether post-birth counselling should be options or mandatory, or for how long after the birth the intended parent(s) should be required to cover the cost of the surrogate's counselling.

There should be options for additionally counselling, however not necessarily mandated for completion prior to relinquishment for the child.
Considerations for additional counselling should include post birth debrief and/or mental health support for a minimum period of 6 to 12 months post the birth. This should be covered by the intended parents.

Proposal 28 & 29 – Medicare Entitlements

Yes, all aspects of surrogacy treatment should be eligible for Medicare rebates, in the same was as accessing assisted reproductive services is when not needing a surrogate. Given the access of surrogacy is related to medical reasons (either MRKH, recurrent loss, hysterectomy, or other health issues), Medicare eligibility should be part of best practice treatment.

Additionally, consideration for specific items codes to access the required psychological assessment, as well as mental health intervention post treatment commencement should be considered. Similar item numbers, or funding streams for surrogacy related mental health treatment and support could be set up, to that of the Perinatal Non-Directive Counselling Scheme. With only registered ANZICA members being able to access funding through these item numbers, to ensure appropriate and highly skilled support is being provided.

Proposal 33 – Information available through birth certificates

Information available on birth certificates of children born through surrogacy should comply with Options 33.1 *Every copy of the birth certificate issued to the person born through surrogacy from birth*. Consideration should be provided that information on the birth certificate does not need to be the child is born through surrogacy, as the child has a right to privacy, but rather a clear annotation/addendum on the birth certificate of further information related to the child's birth being able to be accessed, either through BDM, or the National Surrogacy Register.

By noting from the start in an annotated/addendum format, this allows openness, reduces secrecy, while also maintaining privacy.

Thank you for considering my submission.
Yours Faithfully,

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Reproductive Psychologist
ANZICA Registered Infertility Counsellor & Supervisor, Victorian Representative and Executive Member

Appendix – References

Recommendations for practices using gestational carriers: A committee opinion. *Fertility and Sterility, 118*(1), 65–74. https://doi.org/10.1016/j.fertnstert.2016.11.007

Klock, S.C. & Covington S.N. (2015). Results of the Minnesota Multiphasic Personality Inventory-2 among gestational surrogacy candidates. *International Journal of Gynecology and Obstetrics*. https://doi.org/10.1016/j.ijgo.2015.03.030

Montrone, M., Sherman, A.K., Avery, J., & Rodino, I.S. (2020). A comparison of sociodemographic and psychological characteristics among intended parents, surrogates, and partners involved in Australian altruistic surrogacy agreements. *Fertility and Sterility, 113* (3), 642-652. https://doi.org/10.1016/j.fertnstert.2019.10.035

Riddle, M. (2020). Psychological assessment of gestational carrier candidates: current approaches, challenges and future considerations. *Fertility and Sterility, 115*(5), 897-902. https://doi.org/10.1016/j.fertnstert.2020.02.104