



18 August 2025

Dear Member,

Re: Urgent call for democratic review: Withdraw the Assisted Reproductive Technology and Surrogacy Bill for Law Reform Commission and committee scrutiny, and full stakeholder consultation

Please allow us to introduce ourselves. We are the Western Australian Women's Action Alliance (WAWAA), a member of the Affiliation of Australian Women's Action Advocacy ([AAWAA](#)), which includes groups in all states and territories in Australia. We are secular, independent, and unaligned with any political party, and we advocate for women and girls in domains where we face discrimination or are vulnerable because of our sex.

Member, we are writing to you as a matter of urgency in relation to the [Assisted Reproductive Technology and Surrogacy Bill 2025](#) and the flawed consultation process surrounding the Bill, which is currently before Parliament. The lack of adequate opportunities for input into a change of this magnitude has denied us a meaningful voice in this matter. It is for this reason that we are coming directly to you on behalf of our statewide membership who have expressed concern regarding the absence of democratic process in the tabling of the Bill.

We outline our concerns, below, and invite you to view the Annex for support for our claims.

1. Exclusion of women's voices and democratic deficit

Women's groups, independent experts, and feminist advocates were systematically excluded from consultation. The process was led by fertility industry representatives and clinicians with an obvious commercial interest in expanding ART and surrogacy. Briefings were limited and did not engage with women's advocates or the WA Law Reform Commission, despite the centrality of women to these issues.

2. Conflicts of interest and industry-driven review

The Bill emerged from a ministerial panel chaired by a leading ART clinician, supported by industry insiders. This composition represents a clear conflict of interest, prioritising commercial growth over careful consideration of impacts on women and the broader community.

3. Lack of independent review and committee scrutiny

Unlike best practices in other jurisdictions, WA bypassed both Law Reform Commission

review and full parliamentary committee scrutiny. No comprehensive, independent inquiry or open stakeholder engagement occurred, undermining rights and democratic process, and ignoring Australia's obligations under [CEDAW](#) and the [ICCPR](#).

4. Misleading rationale and legislative flaws

The government rationalises the introduction of the Bill by saying it wants to “harmonise” it with outdated laws from other states, and ignoring the ongoing ALRC review and NSW's incomplete committee inquiry process. This patchwork cannot ensure consistent protections for women.

Perhaps even more elemental, however, is that the merging of ART and surrogacy into a single law is fundamentally flawed. These fields raise distinct legal, ethical, and medical questions, but the Bill and the lack of democratic process surrounding its introduction serves industry interests by bundling the two matters, masking risks, and limiting scrutiny.

Language in the Bill and its explanatory materials is biased, framing ART and surrogacy as a consumer right for commissioning parents who need “access” and the removal of “barriers”, while erasing concerns about exploitation, commodification, and harm to women.

5. Evidence of harm is ignored

Substantial international and domestic evidence documents women's exploitation and abuse in surrogacy arrangements. The UN Special Rapporteur on violence against women and girls recognises surrogacy as a form of violence against women, and Australian data confirms the growth of unchecked, overseas commercial surrogacy as a vehicle used by Australians for obtaining a child.

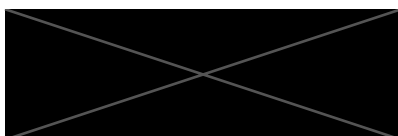
What must happen

- Withdraw the Bill and refer it to the WA Law Reform Commission for an independent, evidence-based review.
- Establish parliamentary committee scrutiny with full and open stakeholder consultation, ensuring women and independent advocates play a central role.
- Ensure that any Terms of Reference are transparent and prioritise women's human rights, not industry interests.
- Recognise women as key stakeholders: do not exclude or sideline us.

Member, democracy demands inclusive, robust scrutiny. We urge you to reject this legislation until proper review and consultation are assured and delivered.

We look forward to your response that engages directly with each of the concerns we have raised above.

Yours Sincerely,



ANNEX: Evidence of systemic failures in WA ART and surrogacy legislation development

A. EXCLUSION OF WOMEN'S VOICES AND FEMINIST ANALYSIS

Consultation failures

- [Ministerial Expert Panel composition](#): Panel chaired by Professor Roger Hart, a leading infertility specialist, with panel members drawn exclusively from the ART industry
- [Targeted stakeholder selection](#): Government chose stakeholders requiring "further consideration" without evidence of women's groups being identified as essential stakeholders
- [No law reform commission involvement](#): WA bypassed independent review by Western Australian Law Reform Commission, unlike proper legislative processes
- [Limited public consultation](#): Process relied on select stakeholder briefings rather than open public consultation required for significant social legislation

International obligations breached

- [CEDAW Article 7 violations](#): Australia obligated to ensure women's equal participation in government policy formulation, including law reform affecting women's rights
- [ICCPR Article 25 violations](#): Citizens' right to participate in public affairs systematically denied to women's advocacy groups
- [UN Special Rapporteur warnings](#): Current UN review identifies surrogacy as form of violence against women, highlighting need for women's voices in policy development

B. CONFLICTS OF INTEREST AND INDUSTRY CAPTURE

Panel composition problems

- [Professional conflicts](#): Panel chaired by Western Australian infertility treatment expert with direct financial interest in ART expansion
- [Industry representation](#): Panel "comprised experts in the field of assisted reproductive technology" rather than independent experts
- [No independent oversight](#): No representation from women's advocacy, children's rights, or ethics expertise outside fertility industry

Regulatory capture evidence

- [Industry-friendly outcomes](#): Legislation streamlines approval processes and reduces regulatory burden on fertility clinics
- [Commercial expansion facilitated](#): Bill creates framework for the beginnings of an industry rather than protective regulation
- [Clinic-based decision making](#): Shifts power from central regulation to clinic-level decisions, benefiting industry operators

C. INADEQUATE REVIEW PROCESS COMPARED TO BEST PRACTICE

Victoria's higher standard (not followed)

- [Victorian Law Reform Commission review 2004-2007](#): Comprehensive three-year independent review with extensive public consultation
- [130 recommendations](#): Detailed analysis resulting in evidence-based Assisted Reproductive Treatment Act 2008
- [Open consultation process](#): Public submissions, community forums, and stakeholder engagement across all affected groups

WA's deficient process

- [Allan Review limitations](#): 2018-2019 review by Associate Professor Sonia Allan, whilst comprehensive, lacked law reform commission independence
- [MEP targeted consultation](#): 2022-2023 Ministerial Expert Panel undertook only "targeted consultation with stakeholders identified by the government"
- [No parliamentary committee review](#): Bill proceeded without committee scrutiny despite complexity and social significance

D. MISLEADING HARMONISATION CLAIMS

Jurisdictional inconsistencies

- [Review timing problems](#): Other state reviews conducted years or decades ago (e.g., Victoria 2007-08, South Australia 2018), creating outdated baseline
- [NSW still reviewing](#): NSW Legislative Council Select Committee only at inquiry stage, no law reform commission review completed
- [Fragmented landscape](#): Australian jurisdictions remain "mishmash" of different approaches, making harmonisation impossible
- [ALRC review ongoing](#): Australian Law Reform Commission currently reviewing surrogacy laws nationally, making WA's rush premature

False urgency arguments

- [No emergency justification](#): No crisis requiring rushed passage without proper democratic scrutiny
- [Industry pressure](#): Urgency appears driven by fertility industry interests rather than genuine public need
- [Rights-based concerns ignored](#): Urgency narrative dismisses fundamental concerns about women's sexed-based protections and rights

E. PROBLEMATIC LEGISLATIVE DRAFTING

Inappropriate bundling

- [Distinct ethical frameworks](#): ART (medical treatment) and surrogacy (reproductive contracts) raise fundamentally different ethical and legal questions
- [Different stakeholder impacts](#): ART primarily affects patients; surrogacy affects surrogate mothers, commissioning parents, and children with competing interests
- [Regulatory complexity](#): Combining distinct practices prevents adequate scrutiny of surrogacy-specific harms and protections

Language bias

- ['Access' framing](#): Terms like 'barriers to accessing surrogacy' frame women's bodies as service delivery rather than addressing exploitation
- [Industry terminology](#): Legislative language privileges commissioning parents' perspectives over surrogate mothers' experiences
- [Rights erasure](#): Focus on "family formation" obscures women's human rights and dignity concerns

F. EVIDENCE OF HARM SYSTEMATICALLY IGNORED

International evidence

- [UN Special Rapporteur findings](#): Surrogacy constitutes form of violence against women through medical, economic, and psychological harm
- [Trafficking concerns](#): Over 3,000 children born via overseas surrogacy to Australian parents since 2010, yet no prosecutions under criminalising laws
- [Exploitation documentation](#): Evidence from multiple jurisdictions shows systematic exploitation of economically disadvantaged women

Australian data ignored

- [Overseas surrogacy dominance](#): 376 children commissioned overseas via surrogacy in year ending June 2024, nearly triple domestic 'altruistic' births
- [Enforcement failures](#): Commercial surrogacy formally illegal but effectively decriminalised through non-enforcement
- [Post-hoc legitimisation](#): Courts grant parentage orders automatically for overseas-born children, legitimising exploitative practices