



The Hon Michelle Rowland MP
Attorney-General of Australia
via Michelle.Rowland.MP@aph.gov.au

23 December 2025

Dear Attorney-General Rowland,

Re: ALRC Review of surrogacy laws – Serious concerns regarding Advisory Committee governance and the ALRC's interpretation of statutory obligations

Please allow us to (re-)introduce ourselves. We are the Affiliation of Australian Women's Advocacy Alliances (AAWAA), an independent women's rights organisation and a national peak body for our own locally organised, grassroots women's groups across all Australian states and territories. We work to promote, advance, advocate for, and defend the protection, social equality, welfare, and human rights of women and girls on the basis of our biological sex.

Attorney-General, we write to you today to raise matters of significant concern regarding the Australian Law Reform Commission's Review of Surrogacy Laws.

On 18 December 2025, AAWAA attended a roundtable consultation held by the ALRC. During that consultation, the ALRC requested that women's organisations address in writing how a recommendation from the Commission that surrogacy should be prohibited could fall within the ALRC's Terms of Reference. This question has prompted us to seek your attention on a matter of law that we believe is within your remit as Attorney-General. We also wish to alert you to what appears to be a glaring disrespect for the importance of constituting an Advisory Committee that can provide advice with balance.

The ALRC's statutory powers

Ms Rowland, we have written separately to the President of the ALRC at his invitation (see Annex A), setting out our concerns about the governance and process of the review, and requesting a pause to allow for reconstitution of the Advisory Committee to include a broader and more balanced range of expertise.

In that letter, we have also reminded the ALRC of its statutory obligations under section 24 of the *Australian Law Reform Commission Act 1996* (Cth), which requires the Commission to ensure that its recommendations are, as far as practicable, consistent with Australia's international obligations. We have further noted that Term of Reference 1 explicitly directs the ALRC to identify legal and policy reforms that are consistent with Australia's obligations under international law and conventions.

ALRC failure to fulfil statutory obligations

Ms Rowland, we are concerned that the ALRC appears to be actively avoiding its statutory obligations to properly review the current situation regarding surrogacy in Australia, and appears to be using the Terms of Reference as a justification to promote the interests of current Committee members.

We submit that:

First, the ALRC indeed has broad statutory power under the *Australian Law Reform Commission Act 1996* to recommend the prohibition of surrogacy, and that nothing in the Terms of Reference of the current review prevents the ALRC from doing so. Section 24 of the Act requires that, in performing its functions, the Commission must aim at ensuring that the laws, proposals and recommendations it reviews, considers or makes are, as far as practicable, consistent with Australia's international obligations.

Second, Australia's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the International Covenant on Civil and Political Rights (ICCPR) are manifestly relevant to any review into surrogacy law. The ALRC is statutorily obliged to have regard to these obligations in formulating its recommendations, and unwillingness to adequately give effect to those obligations is a failure of function.

Third, if the ALRC has concluded that the current Terms of Reference are inadequate to give effect to Australia's international human rights obligations, then the Commission has the power and responsibility to advise you, the Attorney-General, of that conclusion and to recommend that the Terms of Reference be reconsidered.

ALRC Advisory Committee's lack of balance

Attorney-General, we must also bring to your attention a matter that we feel is of significant concern regarding the governance of this Review.

The Advisory Committee for the ALRC's Review of Surrogacy Laws comprises a preponderance of individuals with direct financial or ideological interests in surrogacy expansion and conspicuously excludes the broad set of views necessary for a robust review. A genuinely consultative law reform review of surrogacy requires a balance of views, including not only feminist analysis but also women who have relinquished a child to adoption, family law experts independent of the fertility industry, adopted

people, surrogate mothers with negative or complex experiences, and gamete donors who can speak to the long-term impacts of these practices. The current composition does not reflect this necessary diversity.

This current composition raises serious questions about structural bias. A law reform review that presents itself as genuinely consultative and evidence-based cannot produce credible recommendations when its advisory committee excludes the very perspectives and lived experience that challenge the policy direction the committee appears predetermined to pursue.

Moreover, we are not aware of any transparent process for identification and management of conflicts of interest for advisory committee members or for the Assistant Commissioner. This absence of transparency compounds our concerns about the review's institutional integrity.

International obligations and the Terms of Reference

Australia has committed to CEDAW, the CRC, and the ICCPR. These commitments are not optional. They are binding legal obligations that must inform law reform.

Furthermore, the Commission's interpretation of the Terms of Reference, reinforced by the structurally biased composition of the Advisory Committee, appears to be driving the review toward regulation and expansion rather than genuine consideration of whether surrogacy can be reconciled with Australia's human rights obligations.

Surrogacy involves the commodification of women's bodies and reproductive labour, intentional separation of mothers from their children, and a profound violation of fundamental human rights. The evidence is extensive and converging: clinical research on mother-child separation, lived experience from women who have lost children to adoption, international human rights analysis, and legal scholarship all point to the same conclusion. There is, therefore, a compelling case for the review to examine prohibition as the necessary response to these fundamental violations.

Expert panel and request for a meeting with the AG's office

Ms Rowland, To be clear, we respect the ALRC's statutory independence; however, given the Commission's apparent unwillingness to engage with the full spectrum of evidence or its international human rights obligations, we are concerned that the final report will be unfit for purpose.

Consequently, rather than intervening in the ALRC's process, we respectfully suggest that you consider establishing a broadly based expert panel to provide you with the balanced advice necessary to ensure any reforms meet the Terms of Reference – particularly regarding Australia's international obligations – independent of the current ALRC review.

We therefore would welcome the opportunity to meet with you, or with representatives of your office, to discuss why such an independent advisory mechanism is necessary. We understand that our colleagues at the Association Representing Mothers Separated by adoption (Victoria, ARMS Vic) have written to you separately expressing similar concerns regarding the exclusion of lived experience from the review. We are sure you will find their arguments powerful.

Attorney-General, thank you for your time and your commitment to the people of Australia. We look forward to your response and to meeting with you in the New Year.

Yours sincerely,



Dr Megan Poore
Founder, AAWAA

ANNEXES

- Annex A. Letter to the ALRC President, dated 23 December 2025
- Annex B. AAWAA submission to the ALRC in response to the ALRC Review of surrogacy laws, Discussion paper 89