



Justice Mordecai Bromberg
President Australian
Law Reform Commission
via EAtoPresidentBromberg@alrc.gov.au and info@alrc.gov.au

23 December 2025

Dear Justice Bromberg,

Re: Review of surrogacy laws – Governance, process, and request for pause

We write to you following the roundtable consultation held on 18 December 2025, in which you invited us to set out our position in writing regarding our governance and process concerns relating to this inquiry, as well as our submission that a recommendation to prohibit surrogacy falls within the terms of reference for this review.

About AAWAA

The Affiliation of Australian Women's Advocacy Alliances (AAWAA) is 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 are run entirely by unpaid volunteers and funded by donations – most of which are small and made almost exclusively by women. 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. Our member groups have a track record of engaging through various mechanisms – both nationally and internationally – to advance the cause for the prohibition of surrogacy.

We write today as AAWAA: we do not seek to represent the broader feminist movement in Australia, nor do we speak on behalf of the coalition of organisations that attended the 18 December roundtable.

Advisory Committee's lack of balance, plus governance and conflict concerns

Justice Bromberg, we wish to raise three interconnected concerns about the governance and process of this review.

First, the Advisory Committee for the review lacks the broad and balanced set of views necessary for a robust inquiry. The committee comprises individuals with direct financial or

ideological interests in surrogacy expansion, but conspicuously excludes other critical perspectives. A genuinely consultative law reform inquiry requires a balance of views, including not only feminist analysis of matters affecting women, 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 surrogacy practices. The current composition of the Advisory Committee does not reflect this necessary diversity, raising serious questions about whether the process can produce recommendations that are free from the influence of those who profit from the expansion of surrogacy.

Second, we are not aware of transparent identification and management of conflicts of interest – material or perceived – for any member of the Advisory Committee, or for the Assistant Commissioner. Such transparency is a fundamental requirement of the institutional integrity mandated by the *Australian Law Reform Commission Act 1996* (Cth) and the *Public Governance, Performance and Accountability Act 2013* (Cth), and the APS Code of Conduct (which applies to the Assistant Commissioner). Process transparency of this kind is not optional; it is foundational to public trust in law reform institutions.

Third, when we raised governance concerns at the roundtable, we were informed that such matters were not appropriate for public discussion, and that we should raise them via private email. This approach fragments accountability. Collective concerns raised in a public forum, with witnesses, are substantively different from individual concerns communicated in private correspondence to a single officer of the Commission. The effect of this restriction is to deplete the visibility and weight of governance concerns and to reduce the ALRC's institutional accountability for addressing them.

Need for pause of current review and reconstitution of Advisory Committee

We ask that the ALRC pause the current review to allow for the reconstitution of the Advisory Committee. A reconstituted Committee must include representation of the full and balanced spectrum of informed perspectives on surrogacy, specifically including independent family law experts, adopted people, gamete donors, and women with lived experience of relinquishment, alongside feminist organisations advocating for prohibition.

We would be interested to represent our members if the membership of the Committee was to be reconstituted in such a way that it could fully and comprehensively respond to the Terms of Reference, and represent a balance of views, rather than present a surrogacy system blueprint.

ALRC's statutory obligations and Australia's international obligations

Justice Bromberg, you invited us to explain how a recommendation for prohibition falls within the Terms of Reference. We draw your attention to the ALRC's statutory obligations under the *Australian Law Reform Commission Act 1996*.

Section 24(1)(b) 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 that are relevant to

the matter. And Term of Reference 1 directs the Commission to identify legal and policy reforms that are consistent with Australia's obligations under international law and conventions.

Surrogacy inherently conflicts with key international human rights instruments, including 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). The evidence is overwhelming, and has only this year been reported on by the UN Special Rapporteur on violence against women and girls: surrogacy involves the commodification of women's reproductive labour, intentional mother-child separation, and a profound violation of fundamental human rights. Therefore, to fulfil its statutory obligation under s 24(1)(b), the Commission is not only empowered but arguably required to consider prohibition as the only recommendation consistent with these binding international obligations.

We believe the ALRC cannot discharge its statutory duties by claiming that these international obligations fall outside the scope of the Review or are constrained by narrow Terms of Reference.

Request for meeting and need for consultative law reform process

Justice Bromberg, we request an opportunity to talk directly with you – personally – to discuss both the governance concerns we have raised and the substantive legal and human rights position that underpins our call for surrogacy prohibition. We would appreciate any time that you have for an online video call with myself and our Western Australian representative, Amber Rossi, in the New Year. 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.

We believe that a genuine, consultative law reform process – one that is free from structural bias, that operates with transparency, and that takes Australia's human rights obligations seriously – would create the conditions for the ALRC to consider a balanced and constructive way to protect the interests of women and children, in line with your request to us to provide other ways to approach the reform option.

We thank you and your staff for your time, and we appreciate the sensitive and difficult nature of the task that the Commission is undertaking. We look forward to your response and to meeting with you in January or February.

Yours sincerely,



Dr Megan Poore
Founder, AAWAA