



Australian Government
Australian Law Reform Commission

Shaping the Future of Surrogacy and Human Tissue Law The ALRC's Proposals for Reform

Commissioner Dr Maeghan Toews & Assoc Prof Ronli Sifris

AABHL Annual Meeting

7 December 2025

The Australian Law Reform Commission

"The Australian Law Reform Commission is an independent Australian Government agency that provides recommendations for law reform to Government on issues referred to it by the Attorney-General of Australia."



Discussion Papers



Australian Government
Australian Law Reform Commission

DISCUSSION PAPER
REVIEW OF
SURROGACY LAWS

Discussion Paper 89
November 2025



Australian Government
Australian Law Reform Commission

DISCUSSION PAPER
REVIEW OF
HUMAN TISSUE LAWS

Discussion Paper 90
November 2025

Today's Session

1. Human Tissue Inquiry
2. Surrogacy Inquiry
3. Discussion & Questions



Australian Government
Australian Law Reform Commission

ALRC Human Tissue Inquiry: Ideas for Reform

Commissioner Dr Maeghan Toews

Australasian Association for Bioethics and Health Law

7 Dec 2025

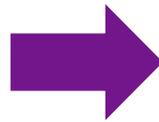
Human Tissue Acts

The Law
Reform
Commission

Report No. 7

HUMAN TISSUE
TRANSPLANTS

*Australian Government
Publishing Service
Canberra 1977*



Legislation – *Human Tissue Acts*

- *Transplantation and Anatomy Act 1978* (ACT)
- *Human Tissue Act 1983 No 164* (NSW)
- *Transplantation and Anatomy Act 1979* (NT)
- *Transplantation and Anatomy Act 1979* (QLD)
- *Transplantation and Anatomy Act 1983* (SA)
- *Human Tissue Act (1985)* (TAS)
- *Human Tissue Act (1982)* (VIC)
- *Human Tissue and Transplant Act 1982* (WA)

How is human tissue used?

**STORED
COLLECTIONS**

RESEARCH

TRANSPLANTATION

**EDUCATION &
TRAINING**

**OTHER
THERAPEUTIC
PURPOSES**

DISPLAY

What have we been asked to do?

What reforms are necessary or desirable to:

harmonise



modernise

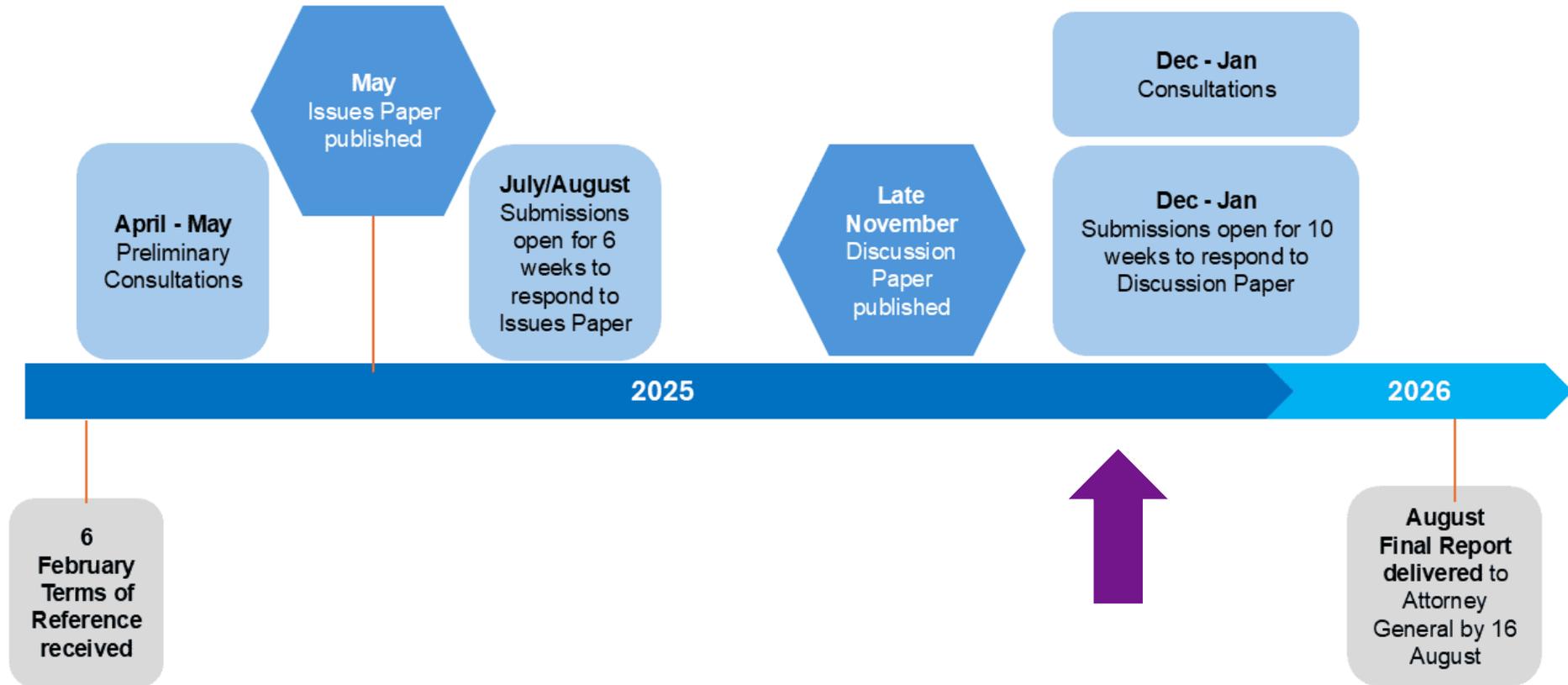
human tissue laws in Australia?

Terms of Reference: Very Broad!

In particular, the ALRC should conduct a principles-based review of the following matters:

- authorisation to donate, retrieve, and transplant human tissue across Australia;
- inconsistencies across existing laws relating to cell, tissue and organ donation and retrieval arrangements from living and deceased persons;
- definition/s of death;
- post-mortem examinations (whole cadavers and body parts);
- definitions of tissue;
- disclosure of information provisions;
- consent arrangements (including for minors) and delegation functions of next of kin;
- definitions of minors, adults and next of kin;
- the regulation of 'schools of anatomy' and donation for education purposes;
- frameworks across all Australian jurisdictions pertaining to the donation and retrieval of cells, tissues and organs from a living and deceased person;
- the advertising of, and trade in, cells, tissues and organs;
- cost recovery, financial and infrastructural considerations related to the manufacture and provision of tissue;
- any other relevant matter.

Timeline



Stakeholder Engagement

42 Consultations

104 Written
Submissions

4 Conference
Presentations

Stakeholders:

- government
- medical practice
- professional societies
- tissue banking sector
- First Nations health & research orgs
- schools of anatomy
- pathology providers
- ppl with lived experience
- researchers
- biobanks
- advocacy orgs
- blood sector
- coroners
- health law & ethics

- *Transplantation Society of Australia and New Zealand (TSANZ)*
- *Australasian Biospecimen Network Association (ABNA)*
- *Australian and New Zealand HREC Conference*
- *AABHL*



Australian Government
Australian Law Reform Commission

DISCUSSION PAPER

REVIEW OF HUMAN TISSUE LAWS

Discussion Paper 90
November 2025

Discussion Paper

- Available at: alrc.gov.au
- Proposals and Questions about how to achieve harmonisation through:
 - nationally consistent legislation, and
 - a national regulator

Priority Areas and Issues

Definition of 'Tissue'

Determination of Death

**Living and Deceased
Donation of Tissue**

Research Tissue

Disclosure of Information

**Deceased Bodies in
Education and Research**

**Prohibition on Trade and
Advertising**

**Regulation of Tissue
Collections**

Proposal Highlights

Determination of Death

Current law:

Irreversible cessation of:

- (a) Circulation of blood in the body of the person; or
- (b) All function of the person's brain



ALRC Proposal:

Permanent cessation of critical functions of a person's brain

'permanent' = cannot resume or will not resume b/c valid end of life decision against resuscitation

'critical function' = capacity for consciousness and ability to breathe independently

Proposal Highlights

Living Donation of Tissue

Current law:

'Regenerative' vs 'non-regenerative' tissue

Children can donate regenerative tissue to close relative in some circumstances with parental consent

Silent re adults w/o capacity



ALRC Proposal:

Eliminate regenerative/non-regenerative distinction

Enshrine basic requirements of consent (capacity, voluntariness, informed as to nature/purpose of removal) for all tissue donation

Independent committee to evaluate donations from children or adults w/o capacity

Proposal Highlights

Deceased Donation of Tissue

Current law:

Different authorisation frameworks depending on location of body (in-hospital vs out-of-hospital)

Removal authorised if person provided 'consent in writing' or 'expressed a wish' to donate

Otherwise requires consent (or lack of objections) from senior available NOK



ALRC Proposal:

Same framework regardless of where body is located

Eliminate role of 'Designated Officer'

Removal authorised if person provided informed consent

Otherwise requires consent of 'authorised decision-maker', who must make decision they think the person would have made

Proposal Highlights

National Regulator

Goals:

- Embed flexibility and consistency over time:
 - Definition of 'tissue'
 - Exceptions to the prohibition on trade
- Fill gaps:
 - Oversight of cost-recovery in tissue banking sector
 - Importation of tissue – provided with consent? From unpaid donors?
 - Research biobanking?

How to Engage



Make a formal submission

23 January 2026

Discussion Paper



You can send your submission to us until 16 January 2026

Your submission might be



a written document



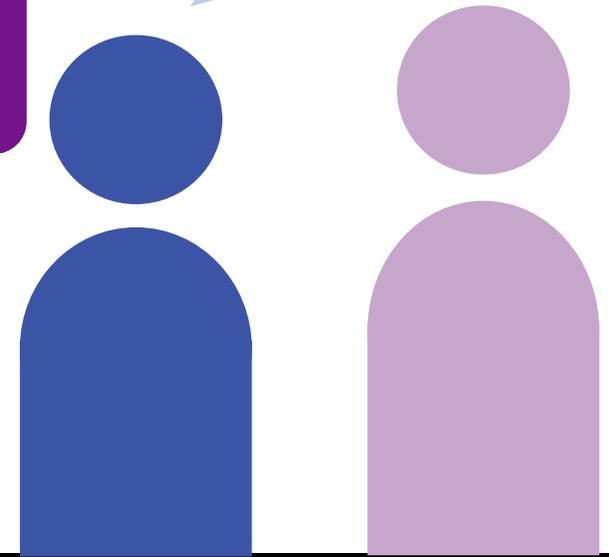
an audio recording



any format that suits you

OR

Have a chat!



www.alrc.gov.au

Thank You



Australasian Association of
Bioethics & Health Law



Australian Government

Australian Law Reform Commission