

**ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO  
CHILD SEXUAL ABUSE - CASE STUDY 33**

**Answers to questions taken on notice by Etienne Scheepers**

**T11132 L10-27**

**Any information as to the under what provisions and for what purpose the agreement under tab 146 was entered into**

1. There does not appear to be any legislative requirement for an Agreement to be made between the provider of a children's home and the Minister of Community Welfare. The first Agreement was made in 1975, and there is no legislative provision or legislative change from the previous year in the *Community Welfare Act 1972-1975* that provided for the creation of such Agreements.
2. The Agreements appear to have a different purpose to the Licenses. Licenses were a legislative requirement under the *Social Welfare Act 1926-1965* and, subsequently, the *Community Welfare Act 1972*, and relate to the standards to be observed in the management and operation of Eden Park Boys' Home. The Agreements between the Minister of Community Welfare and the Salvation Army (South Australia) Property Trust relate primarily to the financing and funding arrangements of Eden Park Boys' Home. This financial assistance is dependent upon a series of conditions and requirements being met by the Home and these requirements are set out in the Agreements.

**T11135 L7-10**

**Legislative framework that governed the placement of indigenous children in the Eden Park Home until its closure in 1982.**

1. The *Aborigines Act 1934 - 1939* and the *Maintenance Act 1926 - 1937* comprise the legislative framework under which indigenous children may have been placed in Eden Park Home until 1963.
2. The *Aborigines Act 1934 - 1939* refers to an "aboriginal institution" as meaning:  
*"Any mission station, reformatory, orphanage, school, home, reserve, or other institution for the benefit, care, or protection of the aboriginal inhabitants of the State".*
3. This Act did not specifically provide for the creation or proclamation of such institutions, but section 16 provided that the Governor could grant leases of any Crown Lands to any mission or other aboriginal institution. The Act also regulates "aboriginal institutions" to some extent<sup>1</sup>.
4. As Eden Park was a private institution owned and run by the Salvation Army and was proclaimed as "a probationary school, and as an institution for the reception, detention, maintenance, education, employment, and training of protestant boys who are State

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<sup>1</sup> See eg section 17, which provides that the Aborigines Protection Board may cause any aborigines to be kept within the boundaries of any reserve or aboriginal institution and section 20, which makes it an offence for certain persons to enter or remain within the boundaries of a reserve or aboriginal institution.

children"<sup>2</sup> it is unlikely that it was an "aboriginal institution" within the meaning of the *Aborigines Act 1934 - 1939*.

5. Section 10 of the *Aborigines Act 1934 - 1939* provided that:

"10. (1) *The Board shall be the legal guardian of every aboriginal child, notwithstanding that any such child has a parent or other relative living, until such child attains the age of 21 years, except whilst such child is a State child within the meaning of the Maintenance Act 1926.*

(2) *Every protector shall, within his district, be the local guardian of every such child within his district.*

(3) *Such local guardian shall have and exercise the powers and duties prescribed."*

6. Section 38 of the *Aborigines Act 1934 - 1939* provided that:

"(1) *The Board may, with the approval of the Children's Welfare and Public Relief Board constituted under the Maintenance Act, 1926, commit any aboriginal child to any institution within the meaning of the Maintenance Act, 1926, under the control of the Children's Welfare and Public Relief Board, to be there detained or otherwise dealt with under the said Act until such child attains the age of 18 years.*

(2) *Such approval and commitment shall be in writing in the form of the transfer of control contained in the second schedule, or a form to the like effect."*

7. Section 39 of the *Aborigines Act 1934 - 1939* provided that:

"(1) *Upon the execution of the said transfer of control with respect to any aboriginal child, such child shall become a State child within the meaning of the Maintenance Act, 1926, and all the provisions of the said Act shall apply to and in respect of such child as if such child were a neglected child committed under the said Act to the institution specified in the said transfer, and as if the said transfer were the mandate issued under the said Act for the taking of such child to such institution and for the detention of such child until such child attains the age of 18 years, subject to the said Act.*

..."

8. Section 40 of the *Aborigines Act 1934 - 1939* provided that:

"(1) *Unless the Board otherwise directs with respect to any particular aboriginal child, the provisions of Section 37, 38, and 39 shall apply only to —*

a. *legitimate aboriginal children who have either —*

i. *obtained a qualifying certificate within the meaning of the Education Act, 1915; or*

ii. *attained the age of 14 years; and*

<sup>2</sup> South Australian Government Gazette, 20 December 1900, p1382

*b. illegitimate aboriginal children, who, irrespective of their age are, in the opinion of the Board and the Children's Welfare and Public Relief Board, neglected or otherwise proper persons to be dealt with under this Act."*

9. The reference to "any institution within the meaning of the *Maintenance Act, 1926*, under the control of the Children's Welfare and Public Relief Board" in section 38 of the *Aborigines Act 1934 - 1939* would have included Eden Park prior to its abolition as a proclaimed institution in 1945.
10. The definition of "institution" in the *Maintenance Act 1926 - 1937* is:
 

*" "Institution" means and includes the Receiving Depot, the Reformatory School for Boys, the Reformatory School for Girls; every depot, industrial school, probationary school or reformatory school established under this Act, or any Act hereby repealed; and every private reformatory school or private institution proclaimed under this Act, or any Act hereby repealed; and all other institutions, schools, and places for the time being under the care, control or supervision of the Board [CWPRB]."*
11. On 28 April 1963 the *Aborigines Act 1934 - 1939* was repealed and the *Aboriginal Affairs Act, 1962* came into operation. This Act did not contain equivalent provisions to those set out in section 38 - 40 of the *Aborigines Act 1934 - 1939*. Thereafter aboriginal children were dealt with in the same way as other children.
12. Therefore, prior to 1945 Aboriginal children could have been placed by the State in Eden Park if they were made State children within the meaning of the *Maintenance Act* pursuant to sections 38 - 40 of the *Aborigines Act 1934 - 1939*.
13. The Commission has heard evidence of aboriginal boys being in Eden Park (Graham Rundle at C11075 L3; C11093 L37). Without any further particulars, it is not possible to ascertain the circumstances in which they came to be there.

#### **T11137 L33-37**

#### **Documents or leaflets which may be of assistance to person making claims or as to publishing the right to make such ex gratia claims**

The guidelines and application form for making ex gratia payments are published on the Attorney-General's Department website referred to at paragraph 43 of my statement dated 17 September 2015 (STAT.0683.001.0001). The Guidelines include information on assistance that can be obtained from Post Care Support Services or the Commissioner for Victim's Rights.

Social workers in Post Care Services actively promoted and supported clients to access the compensation scheme. Staff were available to step clients through the process and help counsel and support clients. The scheme was promoted through post care newsletters and distribution lists. I have not been able to locate copies of these newsletters. Staff also fielded questions and encouraged care leavers to apply for compensation although all care leavers were not notified individually as it was considered that this may have been intrusive.

**Further matter**

In addition to the above, I wish to clarify evidence that I gave at T11125L5-11. In response to a question from Counsel Assisting about whether Eden Park continued to receive State wards between 1941 and 1945 I responded that "According to the records, that's my understanding".

Upon reflection, I am unable to say that there are any documents to suggest that State Wards were admitted to Eden Park between the time the wards were removed in September - November 1941 and 1945.



Etienne Scheepers  
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