

Statement of Compliance

1. Proposal and Proponent Details

Proposal Title	<i>Armstrong Reserve, Dunsborough, Urban and Commercial Development</i>
Statement Number	926
Proponent Name	<i>Ray Village Aged Services (Inc.) trading as Capecare</i>
Proponent's Australian Company Number <i>(where relevant)</i>	ABN: 77 630 179 279

2. Statement of Compliance Details

Reporting Period	21/01/2018 to 20/01/2019	Click to e
-------------------------	--------------------------	----------------------------

Implementation phase(s) during reporting period (please tick ✓ relevant phase(s))					
Pre-construction	✓	Construction		Operation	Decommissioning

Audit Table for Statement addressed in this Statement of Compliance is provided at Attachment:	2
<p>An audit table for the Statement addressed in this Statement of Compliance must be provided as Attachment 2 to this Statement of Compliance. The audit table must be prepared and maintained in accordance with the Department of Water and Environmental Regulation (DWER) <i>Post Assessment Guideline for Preparing an Audit Table</i>, as amended from time to time. The 'Status Column' of the audit table must accurately describe the compliance status of each implementation condition and/or procedure for the reporting period of this Statement of Compliance. The terms that may be used by the proponent in the 'Status Column' of the audit table are limited to the Compliance Status Terms listed and defined in Table 1 of Attachment 1.</p>	

Were all implementation conditions and/or procedures of the Statement complied with within the reporting period? (please tick ✓ the appropriate box)			
No (please proceed to Section 3)	✓	Yes (please proceed to Section 4)	

Each page (including Attachment 2) must be initialed by the person who signs Section 4 of this Statement of Compliance.
INITIALS:

3. Details of Non-compliance(s) and/or Potential Non-compliance(s)

The information required Section 3 must be provided for each non-compliance or potential non-compliance identified during the reporting period covered by this Statement of Compliance.

Non-compliance/potential non-compliance 3-1

Which implementation condition or procedure was non-compliant or potentially non-compliant? Conditions 3-1 and 3-2
Was the implementation condition or procedure non-compliant or potentially non-compliant? Non-compliant
On what date(s) did the non-compliance or potential non-compliance occur (if applicable)? 21 January 2018

Was this non-compliance or potential non-compliance reported to the Chief Executive Officer, DWER?	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Reported to DWER verbally Date _____ <input checked="" type="checkbox"/> Reported to DWER in writing Date 17/10/2017	<input type="checkbox"/> No

What are the details of the non-compliance or potential non-compliance and where relevant, the extent of and impacts associated with the non-compliance or potential non-compliance? Both non-compliances relate to the project not being substantively commenced before the 21 January 2018 (Condition 3-1) and as a result, Capecare not being a position to advise the CEO in writing of the substantive commencement date having occurred (Condition 3-2). There are no deleterious impacts expected to occur as a result of the non-compliances.
--

What is the precise location where the non-compliance or potential non-compliance occurred (if applicable)? (please provide this information as a map or GIS co-ordinates) The non-compliances relate to the project site as identified on the GIS co-ordinates included in Table 4 of the Ministerial Statement and as shown in Figure 1 of the attached Compliance Assessment Report.
--

What was the cause(s) of the non-compliance or potential non-compliance? In relation to the non-compliances, numerous factors have delayed commencement of construction of the aged care facility. These factors include: 1. <i>Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)</i> Approval Condition 4 required that rezoning of both portions of Armstrong Reserve identified as the 'development envelope' and 'remaining portion of Armstrong Reserve' on Figure 1 of Ministerial Statement 926 were required to be implemented prior to construction commencing. 2. <i>EPBC Act</i> Approval Condition 5 required that in order to mitigate the impact of the proposal upon the Western Ringtail Possum, that Capecare secure an appropriate 'offset site' and prepare a Rehabilitation Offset Management Plan for it. The ROMP was approved for implementation by both the Department of the Environment and Energy (DoEE) and the Department of Biodiversity, Conservation and Attractions (DBCA) in December 2017.

Each page (including Attachment 2) must be initialed by the person who signs Section 4 of this Statement of Compliance.
INITIALS: *g*

3. Since the initial concept design of the aged cared facility was completed in 2012, changes to best practice management in relation to caring for and housing dementia patients required a complete architectural re-design of the dementia facility which was conducted between mid-2017 through to mid-2018. Consequently, a revised Development Application (DA) for the project was submitted to the City of Busselton on the 2 August 2018. Due to the cost of the proposed development, the DA was required to be assessed by the Southern Joint Development Assessment Panel (SJDAP). The State planning approvals process was completed in November 2018 when the SJDAP approved the DA for implementation.

What remedial and/or corrective action(s), if any, were taken or are proposed to be taken in response to the non-compliance or potential non-compliance?

A Request for a Change to Condition under s.46 of the *Environmental Protection Act 1986* was submitted to the DEWR on the 17 October 2017. The request related to Condition 3-1 of the Ministerial Statement regarding the substantive commencement implementation timeframe.

What measures, if any, were in place to prevent the non-compliance or potential non-compliance before it occurred? What, if any, amendments have been made to those measures to prevent re-occurrence?

As previously described, the requirement to satisfy certain Commonwealth Approval Conditions have been protracted due to satisfying the requirements of third parties (State environmental and planning departments). Now that these conditions have been satisfied, the non-compliance identified should no longer occur.

Please provide information/documentation collected and recorded in relation to this implementation condition or procedure:

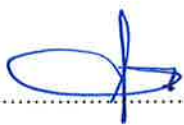
- in the reporting period addressed in this Statement of Compliance; and
- as outlined in the approved Compliance Assessment Plan for the Statement addressed in this Statement of Compliance.

(the above information may be provided as an attachment to this Statement of Compliance)

For additional non-compliance or potential non-compliance, please duplicate this page as required.

4. Proponent Declaration

I, **STEPHEN FREDERIC BUSSELL CARMODY**, CHIEF EXECUTIVE OFFICER declare that I am authorised on behalf of **RAY VILLAGE AGED SERVICES INC trading as CAPECARE** (*being the person responsible for the proposal*) to submit this form and that the information contained in this form is true and not misleading.

Signature:  Date: 15.02.19

Please note that:

- it is an offence under section 112 of the *Environmental Protection Act 1986* for a person to give or cause to be given information that to his knowledge is false or misleading in a material particular; and
- the Chief Executive Officer of the DWER has powers under section 47(2) of the *Environmental Protection Act 1986* to require reports and information about implementation of the proposal to which the statement relates and compliance with the implementation conditions.

5. Submission of Statement of Compliance

One hard copy and one electronic copy (preferably PDF on CD or thumb drive) of the Statement of Compliance are required to be submitted to the Chief Executive Officer, DWER, marked to the attention of Manager, Compliance (Ministerial Statements).

Please note, the DWER has adopted a procedure of providing written acknowledgment of receipt of all Statements of Compliance submitted by the proponent, however, the DWER does not approve Statements of Compliance.

6. Contact Information


Queries regarding Statements of Compliance, or other issues of compliance relevant to a Statement may be directed to Compliance (Ministerial Statements), DWER:

Manager, Compliance (Ministerial Statements)
Department of Water and Environmental Regulation

Postal Address: Locked Bag 33
 Cloisters Square
 PERTH WA 6850
 Phone: (08) 6364 7000
 Email: compliance@dwer.wa.gov.au

7. Post Assessment Guidelines and Forms

Post assessment documents can be found at www.epa.wa.gov.au

Each page (including Attachment 2) must be initialed by the person who signs Section 4 of this Statement of Compliance.
 INITIALS: 

ATTACHMENT 1

Table 1 Compliance Status Terms

Compliance Status Terms	Abbrev	Definition	Notes
Compliant	C	Implementation of the proposal has been carried out in accordance with the requirements of the audit element.	This term applies to audit elements with: <ul style="list-style-type: none"> ongoing requirements that have been met during the reporting period; and requirements with a finite period of application that have been met during the reporting period, but whose status has not yet been classified as 'completed'.
Completed	CLD	A requirement with a finite period of application has been satisfactorily completed.	This term may only be used where: <ul style="list-style-type: none"> audit elements have a finite period of application (e.g. construction activities, development of a document); the action has been satisfactorily completed; and the DWER has provided written acceptance of 'completed' status for the audit element.
Not required at this stage	NR	The requirements of the audit element were not triggered during the reporting period.	This should be consistent with the 'Phase' column of the audit table.
Potentially Non-compliant	PNC	Possible or likely failure to meet the requirements of the audit element.	This term may apply where during the reporting period the proponent has identified a potential non-compliance and has not yet finalized its investigations to determine whether non-compliance has occurred.
Non-compliant	NC	Implementation of the proposal has not been carried out in accordance with the requirements of the audit element.	This term applies where the requirements of the audit element are not "complete" have not been met during the reporting period.
In Process	IP	Where an audit element requires a management or monitoring plan be submitted to the DWER or another government agency for approval, that submission has been made and no further information or changes have been requested by the DWER or the other government agency and assessment by the DWER or other government agency for approval is still pending.	The term 'In Process' may not be used for any purpose other than that stated in the Definition Column. The term 'In Process' may not be used to describe the compliance status of an implementation condition and/or procedure that requires implementation throughout the life of the project (e.g. implementation of a management plan).

Each page (including Attachment 2) must be initialed by the person who signs Section 4 of this Statement of Compliance.

INITIALS: J



Office of the Environmental Protection Authority

TABLE 3: AUDIT TABLE

Statement Compliance Section

PROJECT: ARMSTRONG RESERVE, DUNSBOROUGH - URBAN AND COMMERCIAL DEVELOPMENT

Statement 926

Notes:

- Phases that apply in this table = Pre-Construction, Construction, Operation, Decommissioning, Overall (several phases).
- This audit table is a summary and timetable of conditions and commitments applying to this project. Refer to the Minister's Statement for full detail/precise wording of individual elements.
- Code prefixes: M = Minister's condition, P = Proponent's commitment.
- Acronyms list: CEO = Chief Executive Officer of OEPA; DEC = Department of Environment and Conservation; DER = Department of Environment Regulation; DPaW = (former) Department of Parks and Wildlife; DBCA = Department of Biodiversity, Conservation and Attractions; EPA = Environmental Protection Authority; DoW = Department of Water, Minister for Env = Minister for the Environment; OEPA = Office of the Environmental Protection Authority; CoB = City of Busselton; CAR = Compliance Assessment Report; SoC = Statement of Compliance.
- Compliance Status: C = Compliant, CLD = Completed, NA = Not Audited, NC = Non – compliant, NR = Not Required at this stage. Please note the terms VR = Verification Required and IP = In Process are only for OEPA use.

Audit Code	Subject	Requirement	How	Evidence	Phase	Timeframe	Status	Further Information
926:M1.1	Proposal Implementation	When implementing the proposal, Capecare shall not exceed the authorised extent of the proposal as defined in Column 3 of Table 2 in Schedule 1, unless amendments to the proposal and the authorised extent of the proposal has been approved under the Act.	As per Schedule 1, Statement 926	Annual Compliance Assessment Report (CAR)	Overall	Ongoing	C	During the reporting period, Capecare has been using the authorised extent of the proposal as defined in Column 3 of Table 2 in Schedule 1 of Statement 926 for planning and building design purposes. No request for an amendment to the proposal was submitted during the reporting period.
926:M2.1	Contact Details	Capecare shall notify the CEO of any change of its name, physical address or postal address for the serving of notices or other correspondence within 28 days of such change. Where Capecare is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.	Notify in writing	Record of notification of change of contact name, physical address or postal address addressed to the OEPA	Overall	Ongoing	C	Contact details for the project remain Ray Village Aged Services Incorporated trading as Capecare. As previously advised, Capecare's postal address are: Ray Village Aged Services Incorporated t/a Capecare 20 Ray Avenue Busselton WA 6280
926:M3.1	Time Limit for Proposal Implementation	Capecare shall not commence implementation of the proposal after the expiration of five years from the date of this Statement, and any commencement, within this five year period, must be substantial.				On or before 21 January 2018	NC	During the reporting period, Capecare has continued to undertake pre-construction activities: refining building design and associated architectural drawings, undertaking market research, liaising with planning departments (State and LGA). In October 2017, Capecare submitted a Request for a Change to Condition 3 under Section 46 of the <i>Environmental Protection Act 1986</i> . Condition 3 relates to the time limit for implementation of the proposal. On the 8 March 2018, the Minister for Environment requested the EPA to inquire into changing implementation conditions (refer to Appendix 5).

ATTACHMENT 2

Audit Code	Subject	Requirement	How	Evidence	Phase	Timeframe	Status	Further Information
926:M3.2	Time Limit for Proposal Implementation	Any commencement of implementation of the proposal, within five years from the date of this Statement, must be demonstrated as substantial by providing the CEO with written evidence, on or before the expiration of five years from the date of this Statement.	Notify in writing	Record of notification of substantial commencement addressed to the EPA	Overall	On or before 21 January 2018	NC	Refer to information provided in 926:M3.1. As substantial commencement did not occur prior to the 21 January 2018 deadline, Capecare could not notify the CEO of the DWER in writing of the substantive commencement date.
926:M4.1	Compliance Reporting	At least six calendar months prior to the first Statement of Compliance required pursuant to condition 4-6 or prior to implementation of the proposal, whichever is sooner, Capecare shall: 1. Prepare a Compliance Assessment Plan in accordance with the Office of the Environmental Protection Authority's (EPA's) Post Assessment Guideline for Preparing a Compliance Assessment Plan, as amended from time to time and to the approval of the CEO; and 2. Submit the Compliance Assessment Plan required pursuant to condition 4-1(1) to the CEO.	Prepare and submit a Compliance Assessment Plan	Approved Compliance Assessment Plan	Pre-construction	Submission of CAP before the 21 October 2013 or before ground-disturbing activities	C	A CAP was prepared by Capecare's environmental consultant and submitted to the EPA's Statement Compliance Branch in May 2013. On 16 June 2013 correspondence from the CEO of the EPA was issued to Capecare stating that the CAP had been prepared satisfactorily.
926:M4.2	Compliance Reporting	Capecare shall revise the approved Compliance Assessment Plan in accordance with the EPA's Post Assessment Guideline for Preparing a Compliance Assessment Plan, as amended from time to time and to the approval of the CEO; and 2. Submit the Compliance Assessment Plan required pursuant to condition 4-1(1) to the CEO.	Revise and submit CAP	Revised CAP with EPA Correspondence	Overall	Submission of revised CAP on an 'as needs basis'	C	To date, there has been no request from the EPA to Capecare requesting that Capecare revise the approved CAP.

Audit Code	Subject	Requirement	How	Evidence	Phase	Timeframe	Status	Further Information
		amended from time to time, and submit the revised Compliance Assessment Plan to the approval of the CEO.						
926:M4.3	Compliance Reporting	Capecare shall assess compliance in accordance with the approved Compliance Assessment Plan.	As specified in CAP	CAR	Overall	CAR submission annually before 21 April for each 12-month period.	C	This is the sixth annual CAR to be submitted and deals with pre-construction activities undertaken by Capecare and Capecare's consultants during the reporting period.
926:M4.4	Compliance Reporting	Capecare shall collect and maintain information and documentation in accordance with the approved Compliance Assessment Plan.	Information and documentation available upon request	Overview provided in CAR	Overall	The first SoC is due to be submitted by the 21 April 2014 then annually by the 21 April.	C	The annual CAR will be retained electronically by Capecare for the life of the proposal plus an additional seven (7) years. The CAR for the reporting period 21 January 2017 – 20 January 2018 can be viewed on Capecare's website: https://www.dropbox.com/s/woat3ikndgie8jq/Statement%20of%20Compliance%202017-2018.pdf?dl=0
926:M4.5	Compliance Reporting	Capecare shall advise the CEO of any non-compliance or potential non-compliance within seven days of such awareness.	Notify in writing	Correspondence with the CEO and statement of non-compliance or potential non-compliance	Overall	Within 7 days of non-compliance or potential non-compliance being known.	C	The two non-compliances that occurred during the reporting period were reported to the CEO via the DEWR in a FORM Change to Conditions on the 17 October 2017 (refer to Appendix 4). The Form highlighted the prospective non-compliances related to Condition 3 of Statement 926 (Time Limit for Proposal Implementation) and was based on the status of the Western Australian planning approvals process and the <i>EPBC Act 1999</i> environmental approvals process that Capecare was engaged in.
926:M4.6	Compliance Reporting	Capecare shall prepare a Statement of Compliance for each consecutive 12 month period commencing on the date of this Statement and submit each Statement of Compliance to the CEO no later than three months following the end of each 12 month period it addresses.	Notify in writing	Correspondence with the CEO	Overall	The first SoC is due to be submitted by the 21 April 2014, then annually by the 21 April.	C	The Statement of Compliance (SoC) (refer to Attachment 1) has been completed and duly signed by the Chief Executive Officer of Capecare and is included at the front of this document.
926:M4.7	Compliance Reporting	Capecare shall ensure that each Statement of Compliance is made available to the public in accordance with the approved Compliance Assessment Plan and within 28 days of its submission pursuant to condition 4-6.	In accordance with the <i>OEPA Post Assessment Guideline for Making Information Publically Available</i>	SoC and CAR uploaded onto Capecare's website annually	Overall	The first SoC is to be made available to the public by the 19 May 2014, then annually by the 19 May.	C	The annual SoC will be retained electronically by Capecare for the life of the proposal plus an additional seven (7) years. The annual SoC will be made publicly available via Capecare's website: www.capecare.com.au All previous SoCs (2014 – 2018) can be viewed at the following website: http://capecare.com.au/independent-living/new-dunborough-aged-care-village/
926:M4.8	Compliance Reporting	Capecare shall ensure that each Statement of Compliance: 1. Indicates the extent to which Capecare has complied with the implementation conditions contained	In accordance with the approved CAP	Endorsement by the OEPA Compliance Branch	Overall	The first SoC is due to be submitted by the 21 April 2014, then	C	The SoC that is included at the front of this CAR for the reporting period 21 January 2018 – 20 January 2019. The SoC has been prepared using the OEPA's <i>Post Assessment Form for a Statement of Compliance</i> (downloaded from www.epa.gov.au on the 12 February 2019).

ATTACHMENT 2

Audit Code	Subject	Requirement	How	Evidence	Phase	Timeframe	Status	Further Information
926:M4.9	Compliance Reporting	<p>in this Statement in the preceding 12 month period;</p> <p>2. Is prepared using the OEPA's Post Assessment Form for a Statement of Compliance, as amended from time to time;</p> <p>3. Provides all information required by the OEPA's Post Assessment Form for a Statement of Compliance, as amended from time to time; and</p> <p>4. Is signed by Capecare, if Capecare is an individual, or a person who is a director or the director's delegate, if Capecare is a public body, company or association or body of persons, corporate or unincorporated.</p>			Overall	annually by the 21 April.	NR	
926:M4.9	Compliance Reporting	<p>The CEO has the discretion to, by notice in writing:</p> <ol style="list-style-type: none"> 1. Require Capecare to submit a Statement of Compliance more or less frequently than annually and alter the period addressed by the Statement of Compliance; 2. Alter the due date of the Statements of Compliance; 3. Prescribe the manner in which Statements of Compliance are made available to the public, should this be necessary; and 4. Where a Statement of Compliance contains trade secrets or information that would reveal information of a commercial value, waive the requirement to make any of the Statement of Compliance, in part or wholly, publicly available, should this be requested by Capecare. 	Notify in writing	Correspondence with the CEO		When requested by the CEO	NR	<p>To date, there has been no request issued by the CEO to Capecare requiring Capecare to submit a Soc more or less frequently, after the due date of the Soc or change the prescribed manner in which the Soc is made available to the public.</p>
926:M5.1	Residual Impacts and Risk Management Measures				Pre-construction	Prior to construction commencing	CLD	<p>An outcome of the s.46 Request for Change to Condition is that the EPA-approved Environmental Management Plan prepared for Armstrong Reserve includes a schedule of works for revegetation, weed control and monitoring (Table 5). The schedule currently shows Autumn 2016 as the implementation commencement timeframe and a projected handover of management timeframe to the City of Busselton in Summer 2018. Should the Minister for Environment agree to the s.46 request, amendments to Table 5 will be required to be made.</p>

Audit Code	Subject	Requirement	How	Evidence	Phase	Timeframe	Status	Further Information
		the Development Envelope shown in Figure 1, to the satisfaction of the CEO, on the advice of the Department of Environment and Conservation (DEC).						
926:M5.2	Residual Impacts and Management Risk Measures	The Environmental Management Plan required by condition 5-1 shall be prepared in consultation with the City of Busselton and include: 1. Dieback management measures prepared in consultation with the DEC; 2. Measures to ensure Banksia logs and other woody debris from the clearing in the development envelope are relocated to within the area shown as remaining portion of Armstrong Reserve in Figure 1 to enhance fauna habitat values; 3. Weed control measures; 4. Measures to control vehicle and pedestrian access; and 5. Management measures to ensure impacts from the proposal are contained within the development envelope shown in Figure 1.	Preparation of an EMP including management measures 1-5 in consultation with the City of Busselton	Approved EMP Letters of Endorsement from the City of Busselton and the DEC	Pre-construction	Prior to construction commencing	CLD	As previously reported (EndPlan Environmental, 2015): i) A draft Environmental Management Plan (EMP) was submitted to OEPA for issuing to the former DPaW (now DBCA) and the City of Busselton. The EMP was approved for implementation on the 31 October 2015. ii) Following consultation with the Blackwood District office of the former DPaW, a <i>Phytophthora</i> Dieback Assessment Report was prepared and submitted to CapeCare in January 2015 for their review prior to issuing to the DPaW and City of Busselton. The Report was approved for implementation by the then DPaW (now DBCA) in March 2015. The report forms an appendix to the EMP.
926:M5.3	Residual Impacts and Management Risk Measures	CapeCare shall implement the Environmental Management Plan approved under condition 5-1 in consultation with the City of Busselton for a period of three (3) years from the date of its approval.	Implementation and internal audit of the EMP and results included in the annual CAR provided to the CEO, City of Busselton and made publicly available on CapeCare's website.	Annual CAR including internal audit of EMP management measures 1 -5 identified in M5.2.	Overall	Implement the approved EMP for 3 years from the approval date	C	As previously reported (EndPlan Environmental, 2015): i) In February 2014, an <i>Application for a Permit to Take Rare Flora</i> was submitted to the then DPaW and DRF Permit 156-1314 issued to Dr Paul van der Moezel. ii) On the 6 June 2014, translocation of the plant was undertaken by Dr Paul van der Moezel in association with Ben Lullfitz (DPaW Local Flora Conservation Officer). Documentation relating to the translocation of the Dunsborough Spider Orchid found within the development envelope to another site within Armstrong Reserve. iii) Permit 156-1314 required that a re-survey of the translocated orchid be undertaken each flowering period (mid-September to late-October) in the first two years of transplanting. The initial re-survey was undertaken by Dr Paul van der Moezel in October 2014. iv) A final re-survey of the translocated <i>Caladenia viridescens</i> found within Armstrong Reserve in October 2015. As previously reported (EndPlan Environmental, 2016): i) In accordance with Condition 8.11 of the permit to take Declared Rare Flora (Permit No. 156-1314) issued to Dr Paul van der Moezel, the final re-survey of the translocated <i>Caladenia viridescens</i> was undertaken on the 6 October 2015. The translocated plant was observed to be in full flower and in good health.