

#### 4. HEARING OF PDI ACT APPLICATIONS

**CONFIDENTIAL ITEM**

**Report Reference: CAP040522– 4.1**

**Application No: 21012625**

**Site Location: 10 & 12 Renown Avenue Clovelly Park**

**Having considered all relevant planning matters in relation to the subject development application:**

- (a) The Panel note this report and concurs with the findings and reasons for the recommendation;**
- (b) The Panel concurs that the proposed development is not seriously at variance<sup>1</sup> to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and**
- (c) The Panel authorises the Assessment Manager to instruct Council’s solicitors to make a settlement offer to the appellant in attempt to resolve any outstanding traffic related concerns. The Panel;**
  - a. Authorises the Assessment Manager to resolve the acceptance of a subsequent settlement offer for the appeal, on the basis of the Assessment Manager being satisfied the traffic related matters are appropriate for the land and locality.**
- (d) In the event the traffic related matters are not satisfied, the Panel has instructed the Assessment Manager to advise Council’s solicitors they wish to continue the appeal**

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<sup>1</sup> Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a “*development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code*” (or the Development Plan if under the Development Act).

What is ‘seriously at variance’ is not a defined legislative term and is not synonymous with a proposal that is merely ‘at variance’ with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.