

PROSECUTIONS POLICY

1 Introduction

- 1.1 In July 2012, Cabinet made a number of decisions in response to the 2011 *Review of Public Prosecution Services*. Those decisions included a requirement that all Crown entities that have a prosecution function develop a publicly available prosecution policy that:
- (a) identifies the objective of the entity's prosecution activity;
 - (b) determines the circumstance in which a prosecution is appropriate rather than some less punitive action; and
 - (c) ensures that prosecution decisions are cost-effective and are in the public interest.
- 1.2 The Panel has a prosecution function in respect of breaches of sections 44, 44B and 44C of the Takeovers Act 1993 (the **Act**), and accordingly has developed this policy.

2 Scope

- 2.1 This policy applies to all potential and actual exercise of the Panel's prosecution function under sections 44, 44B and 44C of the Act.
- 2.2 The Panel's objective in taking any prosecution is to provide for the enforcement of the Takeovers Code, and to enforce liability for false or misleading statements or information in relation to takeovers of Code companies.

3 Policy

- 3.1 The Panel is responsible for the decision to commence or continue any prosecution under the Act, and will document any such decision and the reasons for it.
- 3.2 The Panel acknowledges that the Solicitor General has published Prosecution Guidelines as at 1 July 2013 (the **Guidelines**). The Panel will apply the Guidelines (or any amended or updated version thereof) when it considers whether to commence or continue any prosecution under the Act.
- 3.3 The Panel will decide whether to commence or continue any prosecution under the Act on the basis of the Panel's analysis of the circumstances of each potential prosecution in the context of the considerations set out in the Guidelines.
- 3.4 The Panel will conduct any approved prosecutions in accordance with the Guidelines.

1 December 2020