



**New South Wales  
Law Reform Commission**

**Parole  
Scoping paper**

July 2013  
[www.lawreform.lawlink.nsw.gov.au](http://www.lawreform.lawlink.nsw.gov.au)

## Make a submission

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We seek your responses to this Scoping Paper for our reference on parole. To tell us your views you can send your submission by:

**Post:** GPO Box 5199, Sydney NSW 2001

**DX:** DX 1227 Sydney

**Email:** [nsw\\_lrc@agd.nsw.gov.au](mailto:nsw_lrc@agd.nsw.gov.au)

It would assist us if you could provide an electronic version of your submission.

If you have questions about the process please email or call (02) 8061 9334.

**The closing date for submissions on the Scoping Paper is:  
Friday, 23 August 2013.**

### Use of submissions and confidentiality

We generally publish submissions on our website and refer to them in our publications.

Please let us know if you do not want us to publish your submission, or if you want us to treat all or part of it as confidential.

We will endeavour to respect your request, but the law provides some cases where we are required or authorised to disclose information. In particular we may be required to disclose your information under the *Government Information (Public Access) Act 2009* (NSW).

In other words, we will do our best to keep your information confidential if you ask us to do so, but we cannot promise to do so, and sometimes the law or the public interest says we must disclose your information to someone else.

### About the NSW Law Reform Commission

The Law Reform Commission is an independent statutory body that provides advice to the NSW Government on law reform in response to terms of reference given to us by the Attorney General. We undertake research, consult broadly, and report to the Attorney General with recommendations.

For more information about us, and our processes, see our website:

**[www.lawreform.lawlink.nsw.gov.au](http://www.lawreform.lawlink.nsw.gov.au)**

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# Scoping Paper: Parole

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1.1 In this Scoping Paper we briefly outline the issues that we intend to consider as part of our reference on parole. We would like to know:

- Are there issues not identified in this paper that we should investigate?
- Are there issues identified that we should exclude or modify?
- What are the most important issues? Are there priority areas for reform?

## Terms of reference

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1.2 Our inquiry aims to improve the system of parole in NSW. We have been asked to review the mechanisms and processes for considering and determining parole, having regard to:

- the desirability of providing for integration into the community following a sentence of imprisonment with adequate support and supervision
- the need to provide for a process of fair, robust and independent decision-making, including consideration of the respective roles of the courts, State Parole Authority (SPA), Serious Offenders Review Council (SORC) and the Commissioner for Corrective Services
- the needs and interests of the community, victims and offenders, and
- any other related matter.

## Issues to consider

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1.3 We plan to consider the topic areas outlined below against a backdrop of broader consideration of the history and purposes of parole, as well as consideration of the existing quantitative research on parole, reoffending and rehabilitation.

### The parole decision maker

1.4 In terms of the parole decision maker, we will look at:

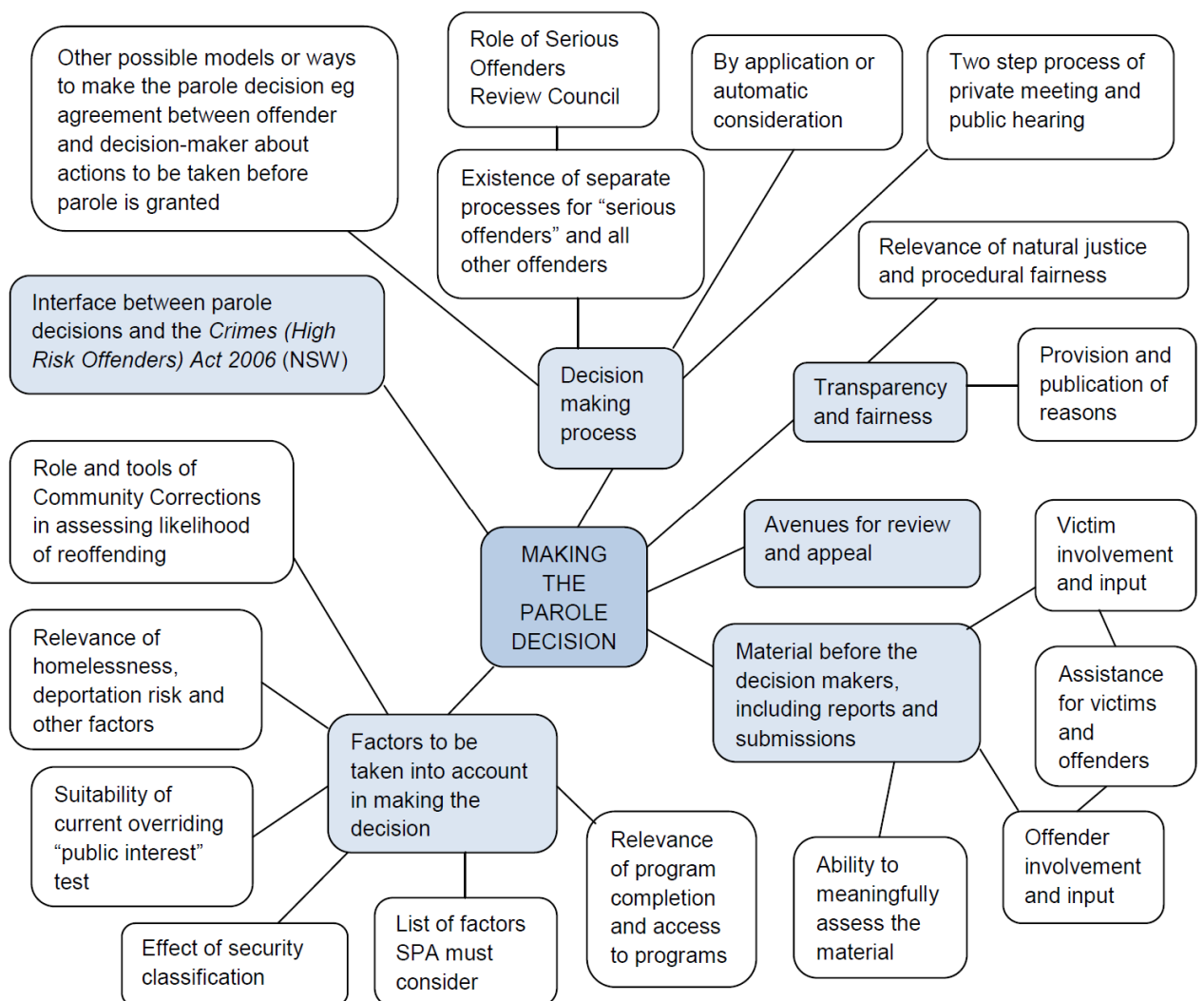
## Parole

- court-based parole orders, including for accumulated and aggregate sentences
- whether the split of responsibility between the courts and SPA is well designed
- the threshold for SPA decision making (currently a sentence of more than three years imprisonment) and whether this should be raised or lowered
- the powers of SPA to revoke court-based orders and assume decision making responsibility for offenders serving a term of less than three years imprisonment
- the membership of SPA and SORC, including the representation of expertise and interests on both bodies, and
- the role of the Drug Court as a parole decision maker.

### SPA's parole decisions

- 1.5 Figure 1 shows the issues connected to SPA's parole decisions that we plan to consider.

**Figure 1: Issues related to SPA's parole decision making**

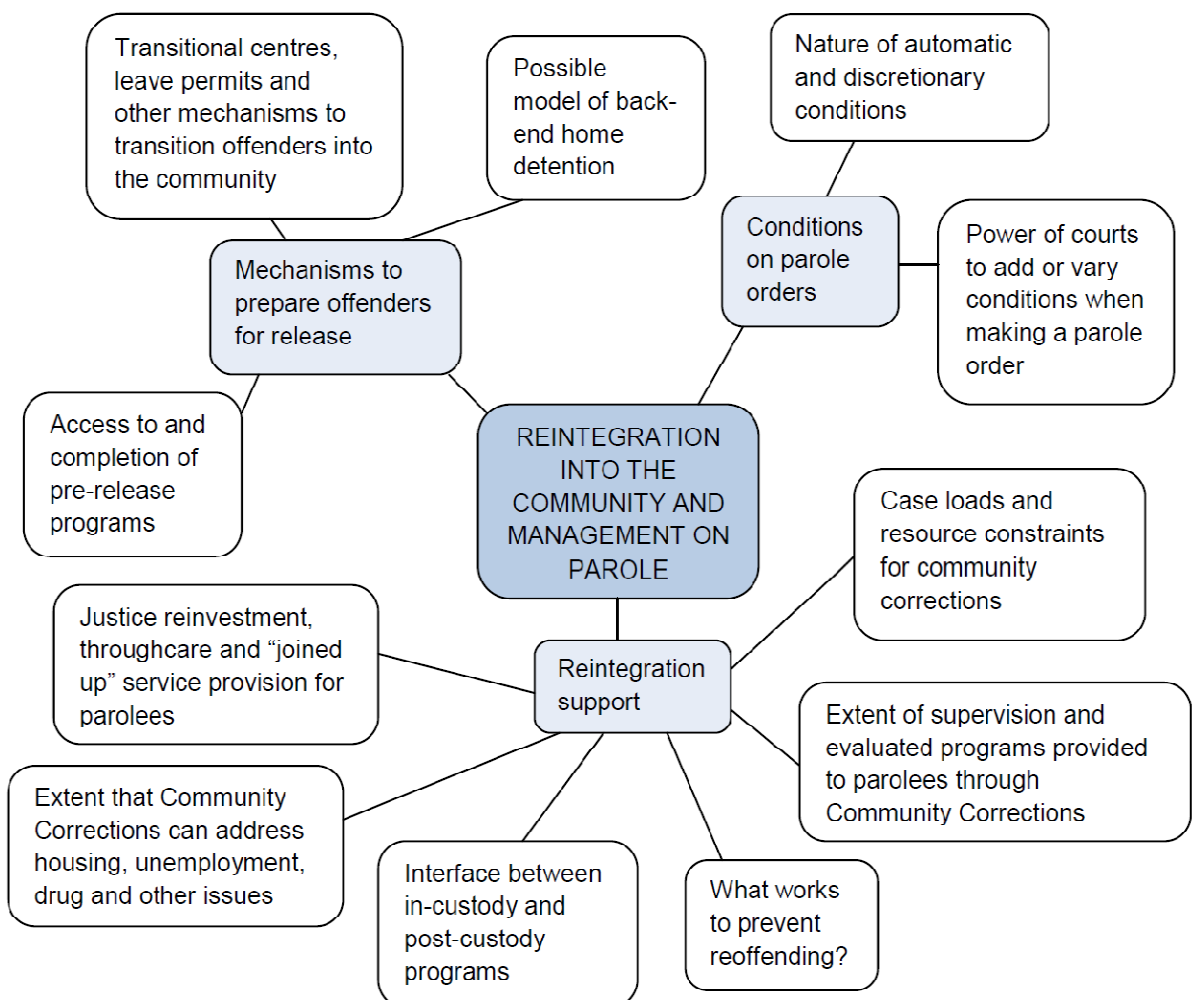


- 1.6 We will look at the process for SPA’s decision making, the involvement of victims and offenders in decisions, the factors that SPA takes into account and the avenues for review and appeal. This will involve examining the different decision making processes for serious offenders and all other offenders. It will also involve close consideration of issues that can affect the parole decision, such as homelessness, the offender’s security classification and completion of in-custody programs.

### Reintegration into the community and management on parole

- 1.7 Figure 2 sketches out the issues we plan to look at related to reintegration into the community and management on parole. We will examine the ways offenders are prepared for release, the relationship between in-custody and post-custody programs, the extent of the reintegration support provided to offenders as part of their parole periods, and any issues connected to the conditions attached to parole orders. Our focus will be on the way parole works or does not work to prevent reoffending and achieve rehabilitation and reintegration.

Figure 2: Issues related to reintegration into the community and management on parole

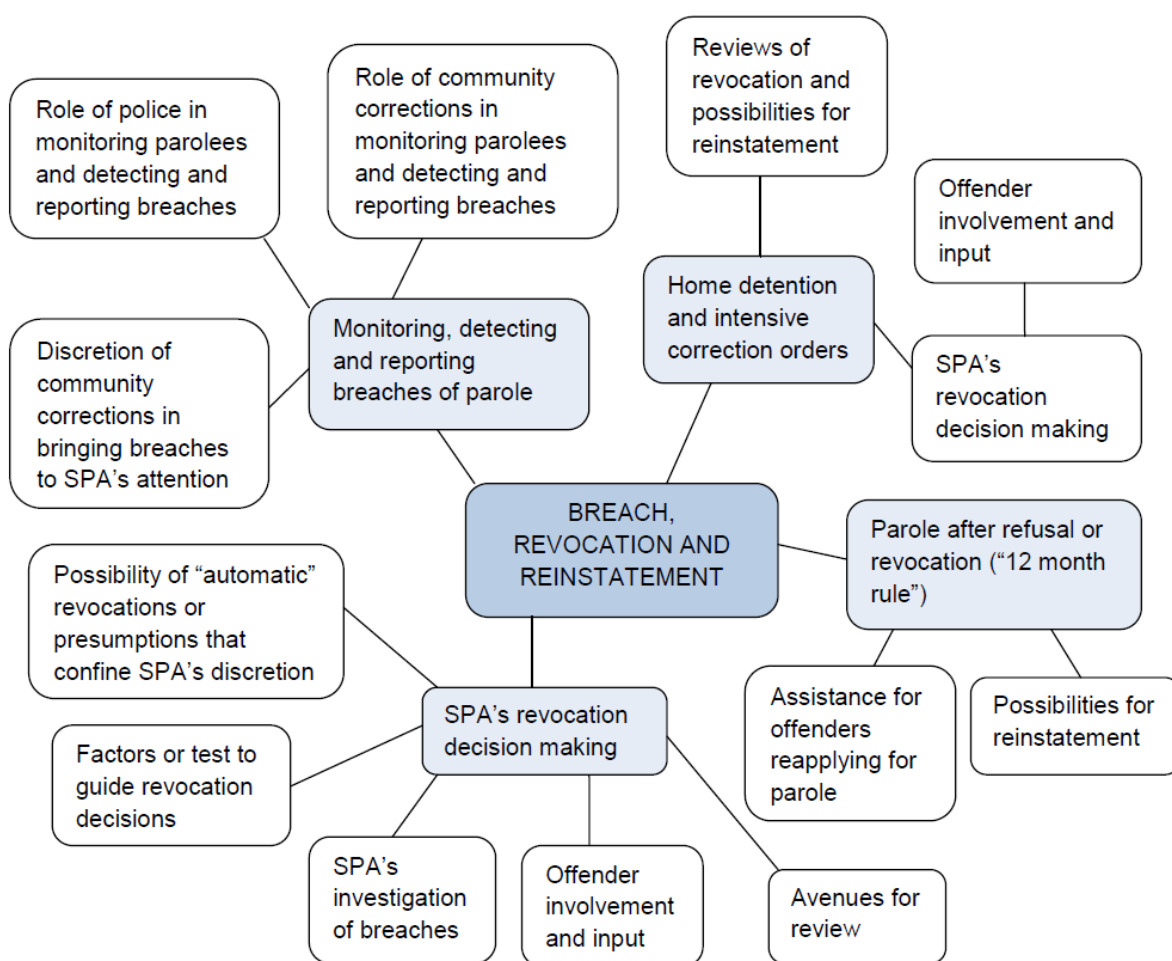




### Breach, revocation and reinstatement

- 1.8 Figure 3 outlines the issues that we will examine in relation to SPA’s powers to manage breaches and revocations of parole. In this area we will also consider the way Community Corrections detects and reports breaches of parole orders and the avenues for offenders to access parole after refusal or revocation (including the “12 month rule”).
- 1.9 Figure 3 also includes SPA’s other powers to manage breaches, revocations and reinstatements of home detention and intensive correction orders. Some stakeholders raised concerns about these powers in our reference on sentencing and we considered that the issues were best looked at in the context of SPA’s dealings with parole orders.

Figure 3: Issues related to breach, revocation and reinstatement



### Juveniles

- 1.10 For most juvenile offenders, the Children’s Court performs the functions of SPA and makes decisions according to the same provisions of the *Crimes (Administration of Sentences) Act 1999* (NSW) that SPA applies to adult offenders. We will look at:
  - the way the Children’s Court makes and revokes parole orders for juveniles

- how the parole system for juveniles interacts with the adult parole system, and
- parole for juveniles tried and sentenced as adults, as well as those managed in adult facilities by Corrective Services NSW.

### Issues that are not within scope

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- 1.11 We consider that any issues connected to sentencing—including the way the court sets the non-parole period and parole period—are beyond the scope of this reference. We will also not be examining the management of offenders in custody except where relevant to pre-release preparation or release decisions.
- 1.12 The content of the *Crimes (High Risk Offenders) Act 2006* (NSW) is also beyond the scope of this reference. We will only examine that legislation in terms of the effect it may have on parole decision making.

### Next steps

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- 1.13 In this paper, we are asking for brief submissions on the scope and direction of our reference on parole.
- 1.14 The next step in the progress of this reference will be the publication of a series of Question Papers. The structure and content of the Question Papers will be informed by submissions to this Scoping Paper. The Question Papers will discuss in detail the law on different aspects of the parole system and ask for full submissions on specific questions or possible reforms.



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