

## DECISION SUMMARY



**Date considered:** 30 May 2024

### **Sentence**

1. The offender is serving an indeterminate sentence.

### **Test for release**

2. Before it could direct release, the panel had to be satisfied that it is no longer necessary for the protection of the public that the offender should be confined.

### **Decision**

3. The panel was satisfied on this matter, and directed release subject to licence conditions.

### **Index offence and offending history**

4. At the High Court in 1971 the offender was convicted of murder. They were sentenced to life imprisonment.

### **Reasons for decision**

5. In reaching its decision, the panel considered:
  - a) the circumstances of the index offence, and any offending history;
  - b) formal risk assessments prepared on the offender;
  - c) the offender's conduct since sentence, and intentions if released;
  - d) all relevant information in the dossier; and
  - e) the evidence heard at the hearing and the deferred hearing.
6. The panel are concerned about the seriously violent and fatal nature of the index offence. The panel are equally concerned about the significant amount of times that the offender has been released and recalled to custody and note that on numerous occasions this was linked to risk taking behaviours. The panel note the circumstances linked to the offender's recall to custody.
7. The panel note that there is a divergence in opinion between the Prison Based Social Worker (PBSW) and Community Based Social Worker (CBSW). The PBSW supports, in light of the applicable test, the offender's re-release but in terms of the safe manageability test it was their position that it was appropriate that they were recalled to custody. Whilst the CBSW did not support the offender's re-release today. The panel attached weight to the fact in oral evidence both social workers did not support the proposition that the offender's re-release posed a significant risk of serious harm to the public or that they

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required to be confined for public protection. However the panel did find that there was some force in the CBSW's position.

8. The panel note the offender's assessed level of risk. The panel acknowledge that despite the offender's numerous releases and recalls to custody they have not been involved in violence for a significant period of time. In an overall assessment of risk and in light of the applicable test the panel agree with both social workers with regards to the offender himself not posing a risk of significant serious harm to others and did not find that it was necessary for the protection of the public that they remain confined. The panel consider there to be force in the PBSW position regarding the offender's case is essentially that the applicable test which resulted in their recall to custody (safe manageability in the community) was correct but they do not meet the other applicable test (protection of the public) to keep them confined.
9. The panel were satisfied that the recommended licence conditions are lawful, necessary and proportionate, in order to manage safely such risk as the offender poses in the community.

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