

LEGISLATIVE COUNCIL
Question Without Notice

Tuesday, 8 August 2023

C865. Hon Dr Brad Pettitt to the Minister representing the Minister for Police

I refer to the climate protestors in Western Australia, and I ask:

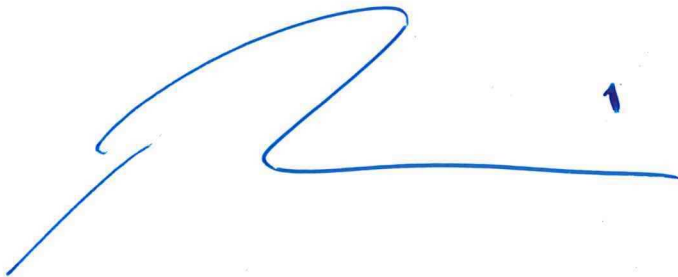
1. Is Disrupt Burrup Hub considered an organised criminal entity or gang?
2. If yes to (1), what was the decision to consider them as such based on?
3. Can the Minister please table any guidelines or documents that outline how an organised criminal entity or gang is defined? If not, why not?

Answer

I thank the Honourable Member for some notice of this question. The following information has been provided to me by the Minister for Police.

The Western Australia Police Force advise:

1. No.
2. Not applicable.
3. I table the attached paper in relation to the definition of a criminal organisation under Section 221C of the *Criminal Code Compilation Act 1913* (The Criminal Code).



In relation to criminal organisations, Section 221C of the *The Criminal Code Compilation Act 1913* (The Criminal Code) defines a criminal organisation as having the meaning given in section 221D. Section 221D details as follows:

- (1) For the purposes of this Chapter, an entity is a *criminal organisation* if —
 - (a) the entity is a declared criminal organisation; or
 - (b) all of the following apply to the entity —
 - (i) the entity is an organisation;
 - (ii) members of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity;
 - (iii) the organisation represents a risk to public safety and order in this State.
- (2) In determining whether an entity is a criminal organisation for the purposes of subsection (1)(b) —
 - (a) a court may have regard to any of the matters that a designated authority is entitled to have regard to under the *Criminal Organisations Control Act 2012* (COC Act) section 13(2) (other than paragraph (e)) in considering whether or not to make a declaration under that Act; and
 - (b) section 13(3) of that Act applies with all necessary changes for the purposes of the court satisfying itself that subsection (1)(b)(ii) of this section applies to the entity.

A declared criminal organisation has the meaning given in the COC Act section 3(1) as defined in section 221C of The Criminal Code. Section 3(1) of the COC Act defines a declared criminal organisation as an organisation in respect of which a declaration is in force.

In relation to gangs and outlaw motorcycle gangs, Section 21 of the *Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021* defines an identified organisation as an organisation named in schedule 2. Schedule 2 references gangs and outlaw motorcycle gangs.