Speech By

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SERIOUS AND ORGANISED CRIME LEGISLATION AMENDMENT BILL

Mr JANETZKI (Toowoomba South—LNP) (8.53 pm): I rise to make a contribution to the debate on the Serious and Organised Crime Legislation Amendment Bill 2016. It is timely that I follow the contribution of the Leader of the Opposition, who so succinctly and accurately laid down the circumstances in which the LNP's laws of 2013 were introduced and the environment in which they were introduced. In my contribution tonight I seek to draw clear distinctions between the LNP laws of 2013 and the laws that we see proposed by the Labor government today. Those opposite are seeking to overturn laws that have operated effectively and efficiently for a number of years.

Firstly, there are significant concerns with the removal of certain police powers which allow them to stop, search and detain a participant in a criminal organisation based on reasonable suspicion. The five circumstances of aggravation that were introduced by the LNP in 2013 which enhanced penalties for participants of criminal organisations committing the offences of affray, misconduct in relation to a public office, grievous bodily harm, serious assault and obtaining or dealing with identification information, will all be repealed and replaced with the serious and organised crime circumstance of aggravation. As Associate Professor Mark Lauchs, a QUT criminologist, has commented, so much of this debate has occurred without any data on the nature of the clubs and their violent or organised crime activities. He suggests the data relied upon by the various reviewing bodies that have conducted reviews over the last couple of years fail to understand organised crime and that there is a significant lack of cooperation between government and academia, which holds back the necessary investigative research from being undertaken.

The bill removes the power introduced by the LNP in 2013 which allows a minister to make a recommendation to the Governor in Council to have an organisation declared a criminal organisation by regulation. Notably, it is proposed that this power will not be removed for two years. This means that clubhouses that were closed down by the LNP are only guaranteed to remain closed for two years and there is no guarantee that new clubhouses will not be created into the future. Anti-association provisions which currently make it illegal for two or more members of a criminal organisation to be knowingly present in a public place will be repealed only after two years. Existing provisions that make it unlawful for any person who is a member or participant in a criminal organisation to enter or attempt to enter a prescribed place or event will be overturned, but again only after two years.

A new consorting offence has been established to replace the anti-association provisions. The bill states that it will be a misdemeanour for a person to consort with two recognised offenders after having been given an official warning by police with respect to each of those individuals. The offence will not apply to persons under the age of 18. The question is: what constitutes consorting? Consorting will prima facie be circumstances where a person associates with another that involves seeking out or accepting that other person's company. Day-to-day social interactions that may occur inadvertently will not constitute an act of consorting. In this regard I note the Queensland Law Society's concern about the operation of the proposed consorting offence. They raise that there is no required nexus between

the association and the commission of or intended commission of a serious criminal offence. As a result there is some risk for the proposed consorting offence to criminalise associations that are unrelated to criminal activity.

Proposed amendments to the Bail Act 1990 overturn the 2013 amendments assuming a presumption against bail for a person who is a participant in a criminal organisation. In that instance a person was required to show cause why their remand in custody is not justified rather than the Crown justifying why a person should not be granted bail for alleged charges of an indictable, simple or regulatory offence. This proposal removes the same presumption against bail for criminal gangs that is used in connection with people accused of murder.

Amendments to the Corrective Services Act overturn the 2013 amendments that granted Queensland Corrective Services the ability to rely on criminal organisation segregation orders, which are enhanced powers to manage prisoners identified as participants of criminal organisations. Such orders included segregation from other prisoners and restricted privileges such as visits, mail and access to other activities. This was to prevent criminal gangs operating in prisons and recruiting new members to their respective criminal organisations.

Particularly troubling is the overturning of the LNP's laws that related to the Crime and Corruption Act 2001. Minimum mandatory sentencing guidelines that provided set time periods of imprisonment for contempt have been replaced with an escalating, tiered maximum penalty system. The 2013 amendments specifically excluding a person's genuinely held fear of retribution as a reasonable excuse for failing to comply with the CCC's coercive powers are proposed to be repealed. The CCC outlined in its submission to the task force into organised crime legislation that it supported the retention of provisions removing claims of reasonable excuse founded on fear of retribution to person or property. The CCC submitted that the existing provisions already effectively addressed the public interest concerns. Finally, powers that give the CCC authority to refuse to disclose information given or produced at an intelligence hearing or hearing authorised under the immediate response power is also proposed to be repealed.

The LNP's 2013 laws introduced, appropriately, a fit and proper test to assess and, if deemed appropriate, deny criminal organisations and their members the ability to operate under a variety of acts including the Tattoo Parlours Act 2013, the Weapons Act 1990 and the Liquor Act 1992. The Police Commissioner exercised his judgement that if a member of a criminal organisation was not a fit and proper person they would not receive one of the occupational licences attributable under those acts. The Queensland Hotels Association said that it was difficult to reconcile the fact that the bill identifies the criminality of criminal organisations and expands the offence of wearing colours to include anywhere in public, yet at the same time weakens the existing licensing provisions to enable members of a declared criminal organisation to be deemed a suitable person to hold a licence. That is a contrast of messages requiring further explanation from the government.

Throughout the debate this afternoon a key question that was posed by many of my colleagues is this: why are these legislative changes necessary in the first place, especially when the existing legislation was due for a review in the shortcoming period? There has been no real demand for change from any of the key stakeholders, any enforcement authorities or the public generally. With the introduction of the LNP's 2013 amendments, in Queensland 2014 crime rates significantly reduced with assault down 3.7 per cent, robbery down 24.8 per cent and unlawful entry down 17.4 per cent. As so many members have articulated this afternoon, under those headings Gold Coast crime statistics fell similarly. The 2013 LNP changes did the job and they did it well. Criminal gangs got out of Queensland, our crime rates reduced and Queensland was a safer place for it. Nothing is to be gained from weakening the LNP introduced laws and opening up the risk to a rise in criminal activity, not just on the Gold Coast but also on streets across our state. Queenslanders will not support that possibility and I will not be supporting this bill.