CONCURRENCE COPY

LOCAL GOVERNMENT (FOOTWAY RESTAURANTS) AMENDMENT BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Liquor (Footway Restaurants) Amendment Bill, 1978, is cognate with this Bill.

The object of this Bill is to enable a council or, on the failure or refusal of a council, the Minister, to grant to a person who conducts or proposes to conduct a restaurant a lease or licence, solely for the purposes of the restaurant, of an area of public footway adjacent to the restaurant and to authorise the erection of structures, solely for the purposes of the restaurant, in relation to the area.

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LOCAL COVERNMENT (DOOTWAY RESTAURS) AMENENTENT REEL, 1978

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LOCAL GOVERNMENT (FOOTWAY RESTAURANTS) AMENDMENT BILL, 1978

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No. , 1978.

A BILL FOR

An Act to amend the Local Government Act, 1919, to enable the conduct of restaurants on adjacent public footways.

[MR HAIGH—1 March, 1978.]

520a. (1) Subject to this so, that we wanted may grant drasha of

43681B 413—

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :---

This Act may be cited as the "Local Government Short title. 1. 5 (Footway Restaurants) Amendment Act, 1978".

The Local Government Act, 1919, is amended by inserting Amendment 2. of Act No. after Division 3 of Part XXIV the following Division :---41, 1919.

Pt. XXIV, Div. 3A.

DIVISION 3A.—Restaurants on footways.

520A. (1) In this Division— ...

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Interpretation: "Commission" means the New South Wales Planning and Pt. XXIV. Environment Commission constituted under the Div. 3A. New South Wales Planning and Environment Commission Act, 1974;

"restaurant" means premises in which food is regularly. supplied on sale to the public for consumption on the premises and includes premises in which such supply is proposed. MR HAIGH-1 1

(2) In this Division, a reference to a footway is a reference to a footway in a public road vested in fee-simple in the council.

520B. (1) Subject to this section, the council may grant Granting of to a person who conducts or proposes to conduct a restaurant lease or licence of a lease of or a licence in respect of such area of the footway footway for adjacent to the restaurant as the council determines for use restaurant purposes. solely for the conduct of the restaurant. ARGRITE.

(2) A lease or licence granted under subsection (1) shall be—

(a) for, or for such periods as the council determines during, a continuous term not exceeding 7 years; and

(b) except as provided by paragraph (a), on such terms and subject to such conditions as the council determines.

(3) The council shall not grant a lease or licence under subsection (1) except with the approval of the Minister given after consideration of a report and recommendation by the Commission.

520c. (1) The council may, on such terms and subject to Erection of such conditions as it determines—

(a) authorise a person to whom a lease or licence under section 520B (1) is granted to erect and maintain structures, during the occupation of the person pursuant to the lease or licence, in, on, over, under or through the area of footway subject to the lease or licence for use solely for the conduct of the restaurant in respect of which the lease or licence is granted; or

(b) exercise, at the request and cost of a person referred to in paragraph (a), any power which that person may be authorised to exercise under that paragraph.

(2) The council may, in respect of the footway or any other part of the public road adjacent to an area of footway subject to a lease or licence granted under section 520B (1), erect and maintain such structures as, in its opinion, are necessary to promote or preserve public safety or health.

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520D. (1) Where a person referred to in section 520B (1) Granting of has requested the council, in writing, to grant him a lease lease, etc., by Minister. or licence under section 520B (1) and the council has refused the request or the council has not, within 90 days after the date of the request, granted such a lease or licence to him, the Minister may, after-

- (a) consideration of a report and recommendation by the Commission:
- (b) consultation with the Minister administering Part IX; and
- (c) consideration of any representations made to him by the council.

exercise and perform the powers, authorities, duties and functions of the council under section 520B and, if he thinks fit, section 520c.

(2) A lease or licence granted by the Minister under subsection (1) shall be deemed to have been granted by the council in accordance with section 520B.

520E. Where an area of footway subject to a lease or Determinalicence granted under this Division is used otherwise than, tion of or ceases to be used, solely for the conduct of a restaurant in licence. conjunction with the use of the adjacent premises as a restaurant, the lease or licence shall, notwithstanding any term or condition of the lease or licence, determine forthwith.

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520F. (1) Notwithstanding anything contained in this or Effect of any other Act or any law to the contrary-

operation of contrary

- (a) the occupation of an area of footway in accordance laws. with a lease or licence granted under this Division; and
- (b) the erection of a structure in, on, over, under or through such an area or an adjacent area under section 520c or by the Minister pursuant to section 520D (1).

is lawful.

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Local Government (Footway Restaurants) Amendment.

(2) Where the occupation of an area of footway or the erection of a structure in respect of such an area is lawful under subsection (1), the council, the Minister, the person to whom the lease of or licence in respect of that area is granted and the servants, agents and invitees of that person, shall, in respect of the use and occupation of that area solely for the purposes of the conduct of a restaurant, be freed and discharged from all penalties, suits, prosecutions and liabilities which by law the council, the Minister, that person or those servants, agents and invitees, would, but for this Division, be liable as causing an obstruction of a public place or as offending against any provision of this or any other Act or against any other law, being a provision or law relating to the use or occupation of a footway.

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(3) Section 10 does not apply to this Division.

520G. Except as may be provided in a lease or licence Other granted under this Division, nothing in this Division dero-powers, etc., not gates from or otherwise affects any power, authority, duty or affected. function conferred or imposed on the council by or under this Act.

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BY AUTHORITY D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES-1978

[8c]

ACE 1.0. 1978.

Local Generativent (Poon ay Restaurants) Amendment.

(b) Whete the occupation of an area of footway or incretection of a structure in respect of such an area is lawlut independences of a structure in respect of such an area is pranted when the tetas of or bordee in respect of that area is granted and the servants, agaits and invites of that person, shall in respect of the tes and occupation of that area solely for the purpose of the conduct of a rostaurant, be freed and dischare d from all pendica of a rostaurant, be freed and diswhich by law the conduct of the billies, and patient or those activates, agents and invites, with proceedings and habilities which by law the conduct of the billies, that person or those isotropic as causing an obstruction of a public place for as against any other has been a provision of this or any other Act or against any other has been a provision or law galating to the use occupations of a footway.

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52000 Excase at may be provided in a leave or license other graded ender this Division ranning in this Division doro-powergates from or otherwise affects any power, authority, duty or affected function conferred or imposed on the council by or under this Act.

> BY AUTHORITY D. WENT, GOVERNMENT THINDER, NDW SOUTH WALES-1978 [86]

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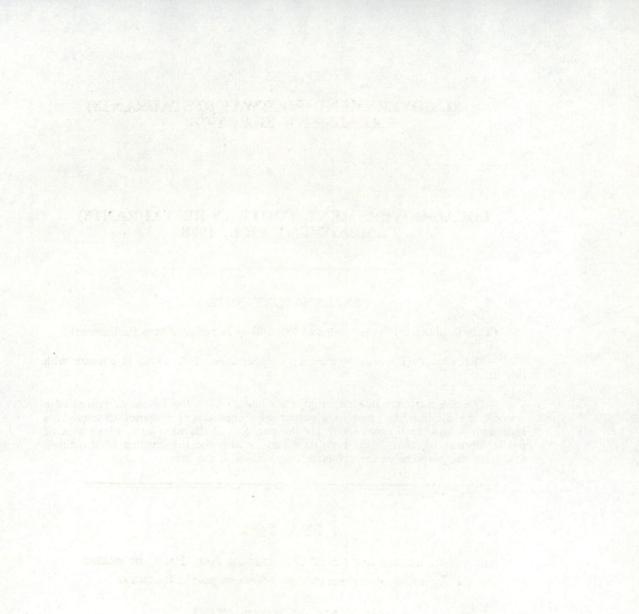
LOCAL GOVERNMENT (FOOTWAY RESTAURANTS) AMENDMENT BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Liquor (Footway Restaurants) Amendment Bill, 1978, is cognate with this Bill.

The object of this Bill is to enable a council or, on the failure or refusal of a council, the Minister, to grant to a person who conducts or proposes to conduct a restaurant a lease or licence, solely for the purposes of the restaurant, of an area of public footway adjacent to the restaurant and to authorise the erection of structures, solely for the purposes of the restaurant, in relation to the area.



LOCAL GOVERNMENT (FOOTWAY RESTAURANTS) AMENDMENT BILL, 1978

No. , 1978.

A BILL FOR

An Act to amend the Local Government Act, 1919, to enable the conduct of restaurants on adjacent public footways.

[MR HAIGH—1 March, 1978.]

43681в 413-

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Local Government Short title. (Footway Restaurants) Amendment Act, 1978".

41, 1919. Pt. XXIV, Div. 3A.

DIVISION 3A.—Restaurants on footways.

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520A. (1) In this Division—

Interpretation:

"Commission" means the New South Wales Planning and Pt. XXIV, Environment Commission constituted under the Div. 3A. New South Wales Planning and Environment Commission Act, 1974;

"restaurant" means premises in which food is regularly supplied on sale to the public for consumption on the premises and includes premises in which such supply is proposed.

(2) In this Division, a reference to a footway is a reference to a footway in a public road vested in fee-simple in the council.

520B. (1) Subject to this section, the council may grant Granting of to a person who conducts or proposes to conduct a restaurant lease or licence of a lease of or a licence in respect of such area of the footway footway for adjacent to the restaurant as the council determines for use restaurant solely for the conduct of the restaurant.

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(2) A lease or licence granted under subsection (1) shall be—

- (a) for, or for such periods as the council determines during, a continuous term not exceeding 7 years; and
- (b) except as provided by paragraph (a), on such terms and subject to such conditions as the council determines.

(3) The council shall not grant a lease or licence under subsection (1) except with the approval of the Minister given after consideration of a report and recommendation by the Commission.

520c. (1) The council may, on such terms and subject to Erection of such conditions as it determines—

(a) authorise a person to whom a lease or licence under section 520B (1) is granted to erect and maintain structures, during the occupation of the person pursuant to the lease or licence, in, on, over, under or through the area of footway subject to the lease or licence for use solely for the conduct of the restaurant in respect of which the lease or licence is granted; or

(b) exercise, at the request and cost of a person referred to in paragraph (a), any power which that person may be authorised to exercise under that paragraph.

(2) The council may, in respect of the footway or any other part of the public road adjacent to an area of footway subject to a lease or licence granted under section 520B (1), erect and maintain such structures as, in its opinion, are necessary to promote or preserve public safety or health.

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520D. (1) Where a person referred to in section 520B (1) Granting of has requested the council, in writing, to grant him a lease lease, etc., or licence under section 520B (1) and the council has refused by Minister. the request or the council has not, within 90 days after the date of the request, granted such a lease or licence to him, the Minister may, after—

- (a) consideration of a report and recommendation by the Commission;
- (b) consultation with the Minister administering Part IX; and
- (c) consideration of any representations made to him by the council,

exercise and perform the powers, authorities, duties and functions of the council under section 520B and, if he thinks fit, section 520c.

(2) A lease or licence granted by the Minister under subsection (1) shall be deemed to have been granted by the council in accordance with section 520B.

520E. Where an area of footway subject to a lease or Determinalicence granted under this Division is used otherwise than, tion of or ceases to be used, solely for the conduct of a restaurant in lease or conjunction with the use of the adjacent premises as a restaurant, the lease or licence shall, notwithstanding any term or condition of the lease or licence, determine forthwith.

520F. (1) Notwithstanding anything contained in this or Effect of any other Act or any law to the contrary—

operation of contrary

- (a) the occupation of an area of footway in accordance laws. with a lease or licence granted under this Division; and
- (b) the erection of a structure in, on, over, under or through such an area or an adjacent area under section 520c or by the Minister pursuant to section 520D (1),

is lawful.

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(2) Where the occupation of an area of footway or the erection of a structure in respect of such an area is lawful under subsection (1), the council, the Minister, the person to whom the lease of or licence in respect of that area is granted and the servants, agents and invitees of that person, shall, in respect of the use and occupation of that area solely for the purposes of the conduct of a restaurant, be freed and discharged from all penalties, suits, prosecutions and liabilities which by law the council, the Minister, that person or those servants, agents and invitees, would, but for this Division, be liable as causing an obstruction of a public place or as offending against any provision of this or any other Act or against any other law, being a provision or law relating to the use or occupation of a footway.

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(3) Section 10 does not apply to this Division.

520G. Except as may be provided in a lease or licence Other granted under this Division, nothing in this Division dero-powers, etc., not gates from or otherwise affects any power, authority, duty or affected. function conferred or imposed on the council by or under this Act.

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BY AUTHORITY D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES-1978 [8c] Local Government (February & according) (Inendment)

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> BY AUTHORITY D, WIST, GOVERNMENT FRINTER, NEW SOUTHEWALES-1713 [36]

PROOF

LOCAL GOVERNMENT (FOOTWAY RESTAURANTS) AMENDMENT BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Liquor (Footway Restaurants) Amendment Bill, 1978, is cognate with this Bill.

The object of this Bill is to enable a council or, on the failure or refusal of a council, the Minister, to grant to a person who conducts or proposes to conduct a restaurant a lease or licence, solely for the purposes of the restaurant, of an area of public footway adjacent to the restaurant and to authorise the erection of structures, solely for the purposes of the restaurant, in relation to the area.

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LOCAL COMERNMENT (FOOT CAN RESTAURANTS) AMENDMENT (EILL, 1978

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(This Registration, Note relates to the fall as introduced into Parliament) The Liquer Victorian Restaurants, Incontinent 1978, is conside with

The object of this Bill is to can be incomended on on the failure of refused of a connect, the Minister, to anothe a consistent of the construct a restaurant of an area of public factory association where of the construct of an area of public factory association whereas the construct of an area of solution factory association whereas and the construct of an area of solution factory association whereas and the construct of a construct of a construct as a construct a solution of the construct of an area of solution factory association whereas and the construct of an area of solution of the construct of a construct of an area of solution of the construct of an area of solutions are constructed as a construct of a construct of an area of solutions are constructed as a construct of a construct of a construct of an area of solutions are constructed as a construct of a construct of an area of solutions are constructed as a construct of a construct of an area of solutions are constructed as a construct of a construct o

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LOCAL GOVERNMENT (FOOTWAY RESTAURANTS) **AMENDMENT BILL, 1978**

5 1. This Act may be wited as the "Local Covernment that the

No. , 1978.

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A BILL FOR

An Act to amend the Local Government Act, 1919, to enable the conduct of restaurants on adjacent public footways.

[MR HAIGH-1 March, 1978.]

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 1. This Act may be cited as the "Local Government Short title. (Footway Restaurants) Amendment Act, 1978".

2. The Local Government Act, 1919, is amended by inserting Amendment of Act No. after Division 3 of Part XXIV the following Division :--

41, 1919. Pt. XXIV, Div. 3A.

DIVISION 3A.—Restaurants on footways.

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520A. (1) In this Division

Interpretation:

- "Commission" means the New South Wales Planning and Pt. XXIV, Environment Commission constituted under the Div. 3A. New South Wales Planning and Environment Commission Act, 1974;
- "restaurant" means premises in which food is regularly supplied on sale to the public for consumption on the premises and includes premises in which such supply is proposed.

(2) In this Division, a reference to a footway is areference to a footway in a public road vested in fee-simple in the council.

520B. (1) Subject to this section, the council may grant Granting of to a person who conducts or proposes to conduct a restaurant lease or a lease of or a licence in respect of such area of the footway footway for adjacent to the restaurant as the council determines for use restaurant solely for the conduct of the restaurant.

(2) A lease or licence granted under subsection (1) shall be—

(a) for, or for such periods as the council determines during, a continuous term not exceeding 7 years; and 3

(b) except as provided by paragraph (a), on such terms and subject to such conditions as the council determines.

(3) The council shall not grant a lease or licence under subsection (1) except with the approval of the Minister given after consideration of a report and recommendation by the Commission.

520c. (1) The council may, on such terms and subject to Erection of such conditions as it determines—

(a) authorise a person to whom a lease or licence under section 520B (1) is granted to erect and maintain structures, during the occupation of the person pursuant to the lease or licence, in, on, over, under or through the area of footway subject to the lease or licence for use solely for the conduct of the restaurant in respect of which the lease or licence is granted; or

(b) exercise, at the request and cost of a person referred to in paragraph (a), any power which that person may be authorised to exercise under that paragraph.

(2) The council may, in respect of the footway or any other part of the public road adjacent to an area of footway subject to a lease or licence granted under section 520B (1), erect and maintain such structures as, in its opinion, are necessary to promote or preserve public safety or health.

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520D. (1) Where a person referred to in section 520B (1) Granting of has requested the council, in writing, to grant him a lease lease, etc., or licence under section 520B (1) and the council has refused the request or the council has not, within 90 days after the date of the request, granted such a lease or licence to him, the Minister may, after—

- (a) consideration of a report and recommendation by the Commission;
- (b) consultation with the Minister administering Part IX; and
- (c) consideration of any representations made to him by the council,

exercise and perform the powers, authorities, duties and functions of the council under section 520B and, if he thinks fit, section 520c.

(2) A lease or licence granted by the Minister under subsection (1) shall be deemed to have been granted by the council in accordance with section 520B.

520E. Where an area of footway subject to a lease or Determinalicence granted under this Division is used otherwise than, tion of lease or or ceases to be used, solely for the conduct of a restaurant in licence. conjunction with the use of the adjacent premises as a restaurant, the lease or licence shall, notwithstanding any term or condition of the lease or licence, determine forthwith.

520F. (1) Notwithstanding anything contained in this or Effect of any other Act or any law to the contrary—

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- (a) the occupation of an area of footway in accordance laws.
 with a lease or licence granted under this Division; and
- (b) the erection of a structure in, on, over, under or through such an area or an adjacent area under section 520c or by the Minister pursuant to section 520D (1),

is lawful.

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Act No. , 1978.

Local Government (Footway Restaurants) Amendment.

(2) Where the occupation of an area of footway or the erection of a structure in respect of such an area is lawful under subsection (1), the council, the Minister, the person to whom the lease of or licence in respect of that area is granted and the servants, agents and invitees of that person, shall, in respect of the use and occupation of that area solely for the purposes of the conduct of a restaurant, be freed and discharged from all penalties, suits, prosecutions and liabilities which by law the council, the Minister, that person or those servants, agents and invitees, would, but for this Division, be liable as causing an obstruction of a public place or as offending against any provision of this or any other Act or against any other law, being a provision or law relating to the use or occupation of a footway.

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(3) Section 10 does not apply to this Division.

520G. Except as may be provided in a lease or licence Other granted under this Division, nothing in this Division dero-powers, etc., not gates from or otherwise affects any power, authority, duty or affected. function conferred or imposed on the council by or under this Act.

BY AUTHORITY D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES-1978

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LOCAL GOVERNMENT (FOOTWAY RESTAURANTS) AMENDMENT ACT, 1978, No. 35

New South Wales



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Act No. 35, 1978.

An Act to amend the Local Government Act, 1919, to enable the conduct of restaurants on adjacent public footways. [Assented to, 28th March, 1978.]

P 46611G (10c)

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "Local Government (Footway Restaurants) Amendment Act, 1978".

Amendment **2.** The Local Government Act, 1919, is amended by inserting of Act No. 41, 1919. after Division 3 of Part XXIV the following Division :— Pt. XXIV, Div. 3A.

DIVISION 3A.—Restaurants on footways.

Interpretation: Pt. XXIV, Div. 3A. 520A. (1) In this Division—

"Commission" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974;

"restaurant" means premises in which food is regularly supplied on sale to the public for consumption on the premises and includes premises in which such supply is proposed.

(2) In this Division, a reference to a footway is a reference to a footway in a public road vested in fee-simple in the council.

Granting of lease or licence of footway for restaurant purposes. 520B. (1) Subject to this section, the council may grant to a person who conducts or proposes to conduct a restaurant a lease of or a licence in respect of such area of the footway adjacent to the restaurant as the council determines for use solely for the conduct of the restaurant.

(2) A lease or licence granted under subsection (1) shall be—

- (a) for, or for such periods as the council determines during, a continuous term not exceeding 7 years; and
- (b) except as provided by paragraph (a), on such terms and subject to such conditions as the council determines.

(3) The council shall not grant a lease or licence under subsection (1) except with the approval of the Minister given after consideration of a report and recommendation by the Commission.

520c. (1) The council may, on such terms and subject to Erection of such conditions as it determines—

- (a) authorise a person to whom a lease or licence under section 520B (1) is granted to erect and maintain structures, during the occupation of the person pursuant to the lease or licence, in, on, over, under or through the area of footway subject to the lease or licence for use solely for the conduct of the restaurant in respect of which the lease or licence is granted; or
- (b) exercise, at the request and cost of a person referred to in paragraph (a), any power which that person may be authorised to exercise under that paragraph.

(2) The council may, in respect of the footway or any other part of the public road adjacent to an area of footway subject to a lease or licence granted under section 520B (1), erect and maintain such structures as, in its opinion, are necessary to promote or preserve public safety or health.

Granting of lease, etc., by Minister. 520D. (1) Where a person referred to in section 520B (1) has requested the council, in writing, to grant him a lease or licence under section 520B (1) and the council has refused the request or the council has not, within 90 days after the date of the request, granted such a lease or licence to him, the Minister may, after—

- (a) consideration of a report and recommendation by the Commission;
- (b) consultation with the Minister administering Part IX; and
- (c) consideration of any representations made to him by the council,

exercise and perform the powers, authorities, duties and functions of the council under section 520B and, if he thinks fit, section 520c.

(2) A lease or licence granted by the Minister under subsection (1) shall be deemed to have been granted by the council in accordance with section 520B.

520E. Where an area of footway subject to a lease or licence granted under this Division is used otherwise than, or ceases to be used, solely for the conduct of a restaurant in conjunction with the use of the adjacent premises as a restaurant, the lease or licence shall, notwithstanding any term or condition of the lease or licence, determine forthwith.

520F. (1) Notwithstanding anything contained in this or any other Act or any law to the contrary—

- (a) the occupation of an area of footway in accordance with a lease or licence granted under this Division; and
- (b) the erection of a structure in, on, over, under or through such an area or an adjacent area under section 520c or by the Minister pursuant to section 520D (1),

Determination of lease or licence.

Effect of operation of contrary laws.

is lawful.

Act No. 35, 1978.

Local Government (Footway Restaurants) Amendment.

(2) Where the occupation of an area of footway or the erection of a structure in respect of such an area is lawful under subsection (1), the council, the Minister, the person to whom the lease of or licence in respect of that area is granted and the servants, agents and invitees of that person, shall, in respect of the use and occupation of that area solely for the purposes of the conduct of a restaurant, be freed and discharged from all penalties, suits, prosecutions and liabilities which by law the council, the Minister, that person or those servants, agents and invitees, would, but for this Division, be liable as causing an obstruction of a public place or as offending against any provision of this or any other Act or against any other law, being a provision or law relating to the use or occupation of a footway.

(3) Section 10 does not apply to this Division.

520G. Except as may be provided in a lease or licence Other granted under this Division, nothing in this Division dero- etc., not gates from or otherwise affects any power, authority, duty or affected. function conferred or imposed on the council by or under this Act.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET, By Deputation from His Excellency the Governor.

Government House, Sydney, 28th March, 1978.

> BY AUTHORITY D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

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in the name and on he half of the Majes of assent to this fire

2 A. W. STREET B. D. matalians (1740) His Excellency the Grovenner

stangen Honse. Sv.L.C. 28th March, 1979.

AVENT GOVERNMENT LEINTREMEN SOUTH XELEN.

