

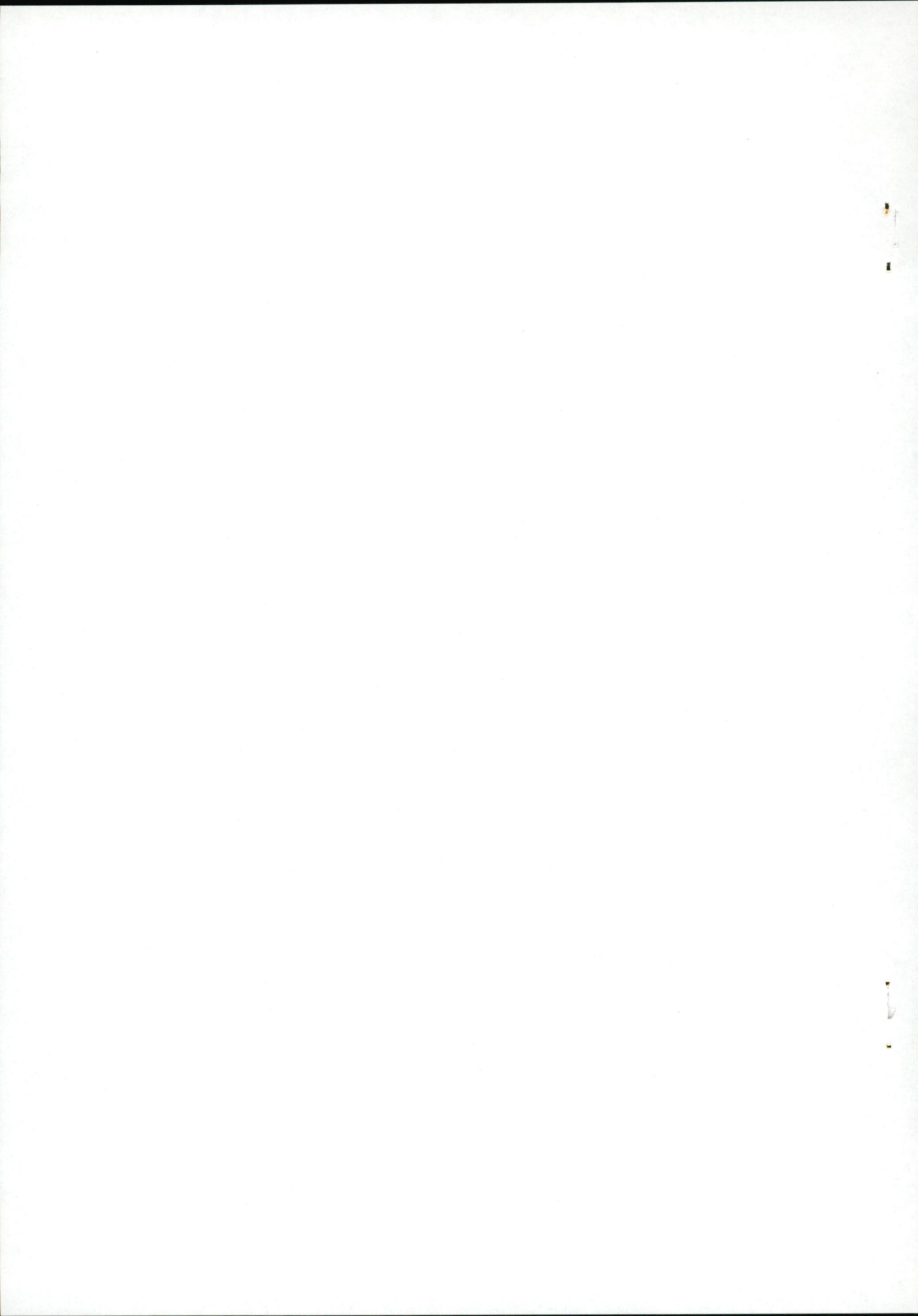
**MARITIME SERVICES (OFFSHORE BOATING)
AMENDMENT ACT 1994 No. 3**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Maritime Services Act 1935 No. 47, s. 38 (Board may make regulations)
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**MARITIME SERVICES (OFFSHORE BOATING)
AMENDMENT ACT 1994 No. 3**

NEW SOUTH WALES



Act No. 3, 1994

An Act to amend section 38 of the Maritime Services Act 1935 to extend the power to make regulations relating to boating and other activities in coastal waters. [Assented to 2 May 1994]

Maritime Services (Offshore Boating) Amendment Act 1994 No. 3

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Maritime Services (Offshore Boating) Amendment Act 1994.

Commencement

2. This Act commences on the date of assent.

Amendment of Maritime Services Act 1935 No. 47, s. 38 (Board may make regulations)

3. The Maritime Services Act 1935 is amended:

- (a) by omitting from section 38 (2) (ei) the words "port or inland";
 - (b) by omitting from section 38 (2) (f) the words "ports and inland".
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[*Minister's second reading speech made in—
Legislative Assembly on 17 March 1994
Legislative Council on 13 April 1994*]

FIRST PRINT

**MARITIME SERVICES (OFFSHORE BOATING)
AMENDMENT BILL 1994**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend section 38 of the Maritime Services Act 1935 so as to extend the power of the Maritime Services Board, with the approval of the Governor, to make regulations relating to boating and other activities in offshore waters. At present, the power under the Maritime Services Act 1935 to make such regulations is largely restricted to the making of regulations concerning the safety of persons operating, using or being carried in vessels in those waters.

The proposed amendments will permit the provisions of the Water Traffic Regulations—N.S.W. and the Management of Waters and Waterside Lands Regulations—N.S.W. (most of which currently apply only to ports and inland waters) to be extended to apply also to offshore waters. Those regulations relate to matters such as the following:

- registration of vessels
- licensing of operators
- negligent navigation
- licensing of aquatic activities
- causing of nuisance or danger
- towing of aquaplaners and water skiers.

After the amendments, the relevant paragraphs of section 38 (2) of the Act will read as follows (matter to be omitted is shown in *italics*):

(2) In particular and without limiting the generality of the foregoing power the Board, with the approval of the Governor, may make regulations for or in relation to:

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- (ei) prohibiting or regulating on, or in connection with, any vessel, floating object, apparatus or structure in any *port or inland* navigable waters, the carrying on of any activity or operation, or the installation or use of any fitting, equipment or machine, which may cause annoyance, nuisance, injury or danger to any

Maritime Services (Offshore Boating) Amendment 1994

person, damage or risk of damage to any property or pollution of navigable waters, or which involves the emission of noise, smoke, dust, cinders, solid particles of any kind, gases, fumes, mist, odours, radio-activity or radio-active substances;

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- (f) generally controlling and regulating the navigation, use and equipment of vessels in the *ports and inland* navigable waters of New South Wales and, without limiting the generality of the foregoing:
- (i) the proper, safe, and efficient conduct of navigation and of maritime and aquatic activities;
 - (ii) preventing interference by or in the use of any vessel with the operation or use of any other vessel;
 - (iii) preventing the operation or use of any vessel in a manner that may cause annoyance, nuisance, injury or danger to any person or damage or risk of damage to any property; and
 - (iv) preventing or limiting the emission from vessels of noise, smoke, dust, cinders, solid particles of any kind, gases, fumes, mist, odours, radio-activity or radio-active substances, prescribing the equipment to be installed in vessels to prevent or limit any such emission, and preventing or regulating the use, movement or operation of vessels in such manner as may cause, increase, or render more serious the effect of, any such emission;

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on the date of assent.

Clause 3 amends the Maritime Services Act 1935 to give effect to the object referred to above.

FIRST PRINT

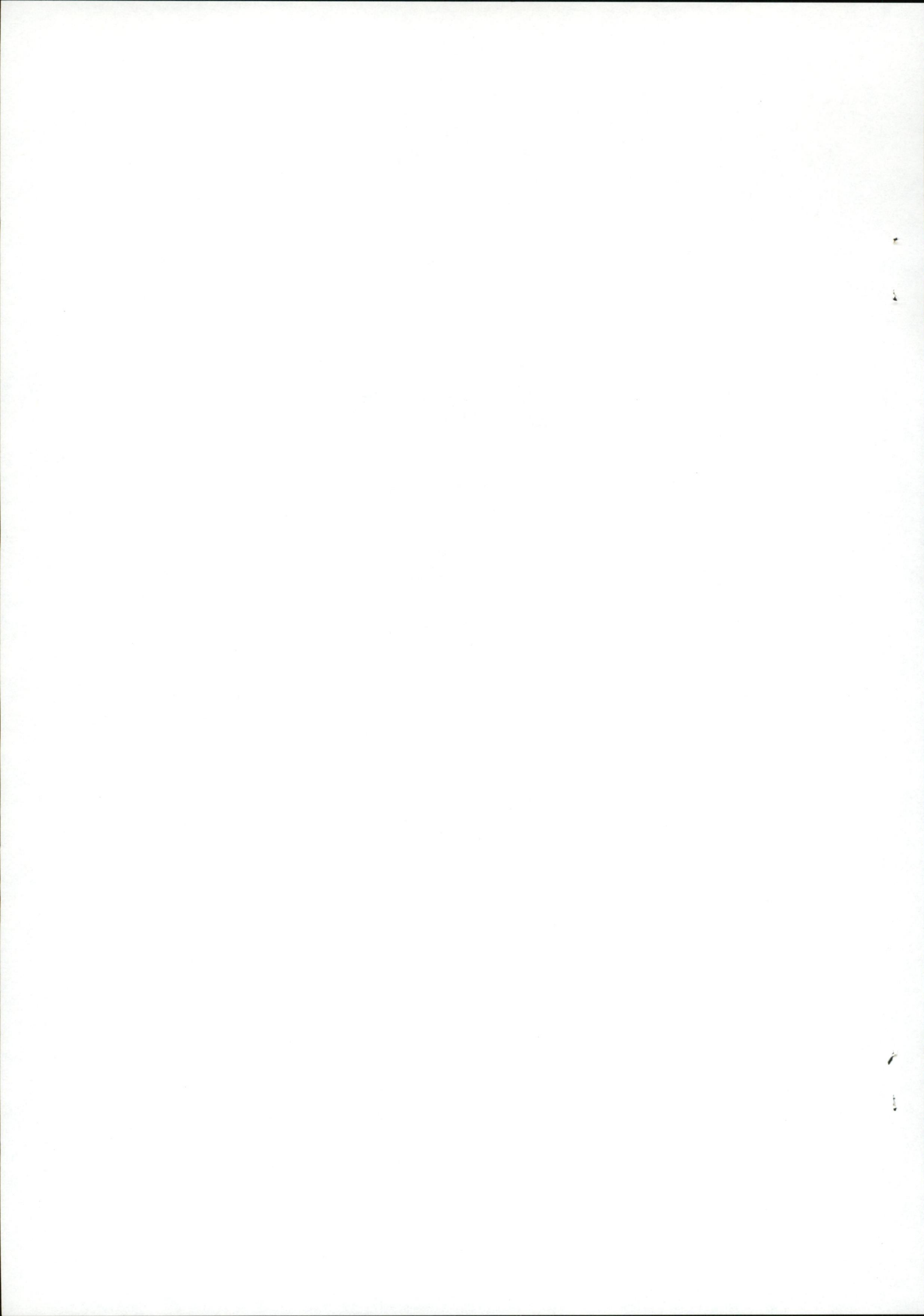
**MARITIME SERVICES (OFFSHORE BOATING)
AMENDMENT BILL 1994**

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**MARITIME SERVICES (OFFSHORE BOATING)
AMENDMENT BILL 1994**

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend section 38 of the Maritime Services Act 1935 to extend the power to make regulations relating to boating and other activities in coastal waters.

Maritime Services (Offshore Boating) Amendment 1994

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Short title

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(b) by omitting from section 38 (2) (f) the words "ports and inland".
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**MARITIME SERVICES ACT (OFFSHORE BOATING) AMENDMENT BILL
SECOND READING SPEECH**

THE HON ROBERT WEBSTER MLC

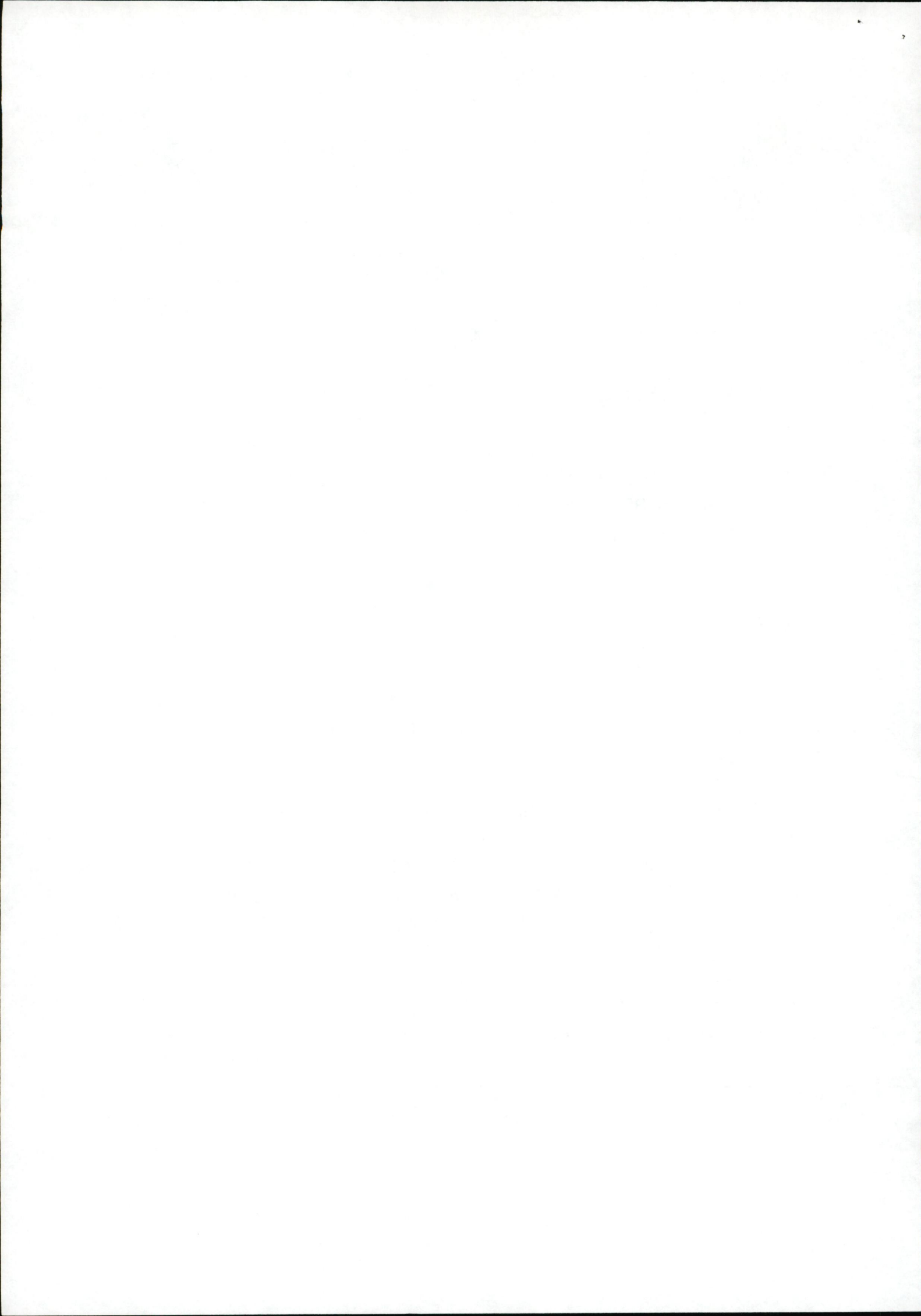
MR PRESIDENT, IT IS WITH GREAT PLEASURE THAT I INTRODUCE THIS BILL WHICH WILL ENHANCE THE STATE'S MARINE SAFETY LEGISLATION AND FURTHER THE GOVERNMENT'S OBJECTIVE OF ENSURING THAT ALL THOSE WHO USE OUR WATERS AND BEACHES ARE PROPERLY PROTECTED BY THE FORCE OF LAW.

AT PRESENT THERE ARE A NUMBER OF DANGEROUS BOATING PRACTICES, SUCH AS SPEEDING AND DRIVING TOO CLOSE TO SWIMMERS IN THE WATER, WHICH CANNOT BE PROPERLY CONTROLLED IN OUR OFFSHORE WATERS WHERE RECREATIONAL VESSELS ARE INVOLVED BECAUSE A REQUIREMENT TO DO SO WAS NOT FORESEEN WHEN THE LEGISLATION WAS FRAMED MANY YEARS AGO.

THE REGULATIONS CONTROLLING THESE ACTIVITIES, AS PRESENTLY FRAMED, CAN BE APPLIED ONLY IN ENCLOSED WATERS, THAT IS IN OUR HARBOURS, ESTUARIES, RIVERS AND LAKES. THE TIME HAS NOW COME FOR THE GOVERNMENT TO TAKE STEPS TO EXTEND THE LAW, IN THIS CASE THE MARITIME SERVICES ACT; SO THAT ALL OF ITS PROVISIONS APPLY IN OFFSHORE WATERS WITHIN THE TERRITORIAL LIMITS OF THE STATE AS WELL AS IN ENCLOSED WATERS.

THE NUMBER OF BOATING FATALITIES IN NEW SOUTH WALES EACH YEAR IS FORTUNATELY, NOT HIGH WHEN COMPARED WITH DEATHS ON THE ROADS, THE HUMAN AND FINANCIAL COSTS OF ON WATER ACCIDENTS ARE NONETHELESS SIGNIFICANT AND INEVITABLY THE RISKS WILL INCREASE AS RECREATIONAL BOATING ACTIVITY CONTINUES TO GROW.

COMMUNITY SAFETY IS A GOVERNMENT PRIORITY AND THIS GOVERNMENT IS COMMITTED TO MINIMISING THE BOATING ACCIDENT AND FATALITY NUMBERS AND THEIR COSTS. IT HAS ALREADY INSTITUTED TWO VERY POSITIVE SAFETY IMPROVEMENTS WITH THE INTRODUCTION OF BLOOD ALCOHOL TESTING FOR BOAT OPERATORS AND LIMITS ON VESSEL PASSENGER OVERLOADING.



IN ADDITION THE BOATING INDUSTRY HAS MADE MANY ADVANCES IN VESSEL DESIGN, SAFETY EQUIPMENT AND NAVIGATION AIDS WHICH HAVE ALSO CONTRIBUTED TO SAFER BOATING BUT THE NUMBER OF BOATING ACCIDENTS IS STILL TOO HIGH AND THIRTEEN PEOPLE DIED IN RECREATIONAL BOATING ACCIDENTS IN 1992/93.

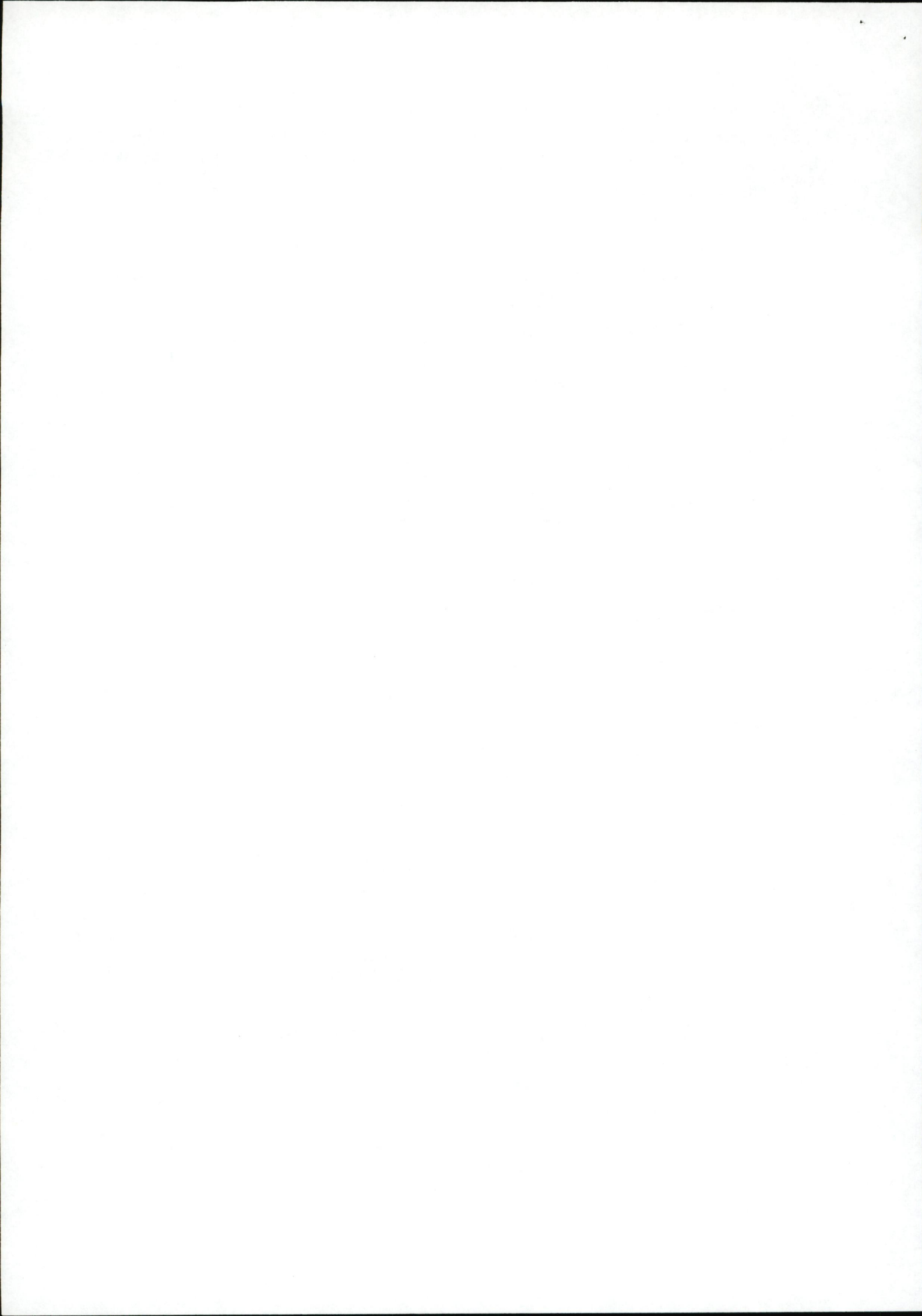
A RECENT ANALYSIS OF BOATING ACCIDENT STATISTICS INDICATES THAT AN INCREASING PROPORTION OF THE ACCIDENTS AND FATALITIES THAT ARE OCCURRING ARE IN OFFSHORE WATERS, AVERAGING 30% TO 40% IN RECENT YEARS. THIS IS DIRECTLY LINKED TO THE INCREASING NUMBER OF VESSELS USING SUCH WATERS.

AS A RESULT OF SEPARATE RESEARCH BY THE FEDERAL BUREAU OF TRANSPORT & COMMUNICATIONS ECONOMICS WE CAN ALSO DETERMINE FIGURES FOR THE TOTAL ECONOMIC AND SOCIAL COST OF THESE BOATING ACCIDENTS. THE SUMS INVOLVED ARE SIMILAR TO THE COSTS OF A ROAD ACCIDENT AND AVERAGE ABOUT \$38,000 IN THE CASE OF AN INJURY. MORE IMPORTANTLY, THE LOSS OF A SINGLE LIFE IS ESTIMATED TO COST THE COMMUNITY ABOUT \$600,000.

THERE ARE ALSO BOATING RELATED PROBLEMS ON OUR BEACHES AND A LOCAL GOVERNMENT SURVEY HAS INDICATED THAT THE MAJORITY OF COASTAL COUNCILS ARE CONCERNED ABOUT PUBLIC DANGER ARISING FROM JET-SKIS BEING USED OFF OCEAN BEACHES CLOSE TO PEOPLE SWIMMING IN THE WATER.

AT PRESENT THE MARITIME SERVICES BOARD'S REGULATIONS FOR THE CONTROL OF BOAT TRAFFIC GENERALLY DO NOT APPLY ON OCEAN BEACHES AND COUNCILS HAVE INDICATED THEY, TOO, ARE UNABLE TO REGULATE THE USE OF JET-SKIS.

WITH NO REALLY EFFECTIVE CONTROLS ON OCEAN BEACHES THE CONFLICT BETWEEN JET-SKI USERS AND OTHERS, MAINLY SWIMMERS, HAS ESCALATED AS THE USE OF THESE CRAFT INCREASES. AS A RESULT THE AUSTRALIAN SCHOOL SURFING ASSOCIATION HAS ASKED THE GOVERNMENT TO ADDRESS INAPPROPRIATE BEHAVIOUR BY AN IRRESPONSIBLE MINORITY OF JET-SKI USERS, AS HAS THE PROFESSIONAL LIFEGUARD ASSOCIATION, SURF LIFE SAVING NSW AND THE LOCAL GOVERNMENT ASSOCIATION.



DUE TO THE APPROACHING HOLIDAY BOATING SEASON THE EXTENSION OF BOATING REGULATIONS TO THESE OFFSHORE WATERS IS NOW SEEN AS AN URGENT REQUIREMENT.

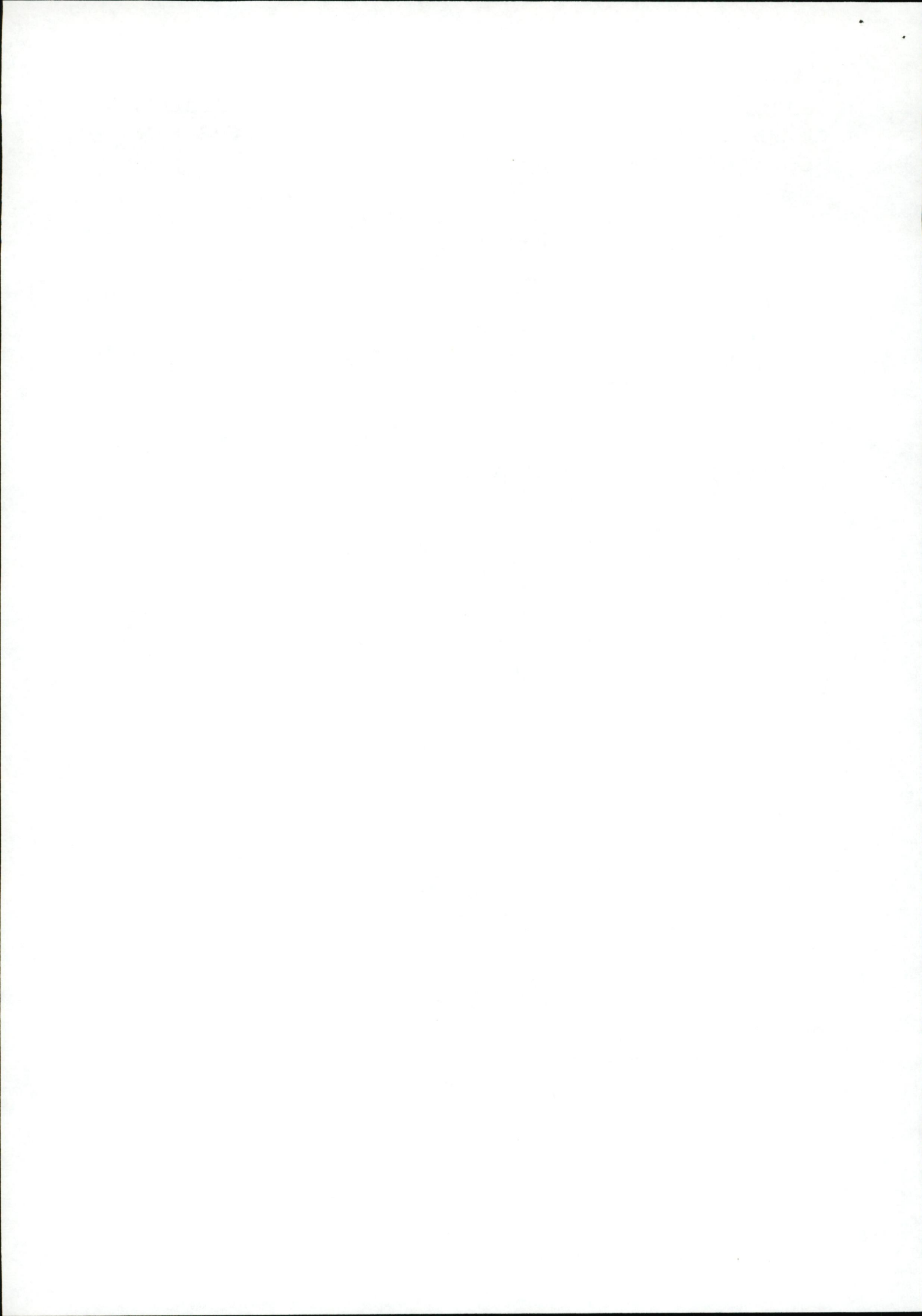
THE MSB IS ABLE TO REGULATE COMMERCIAL VESSEL ACTIVITY BUT UNDER THE EXISTING LEGISLATION IT IS NOT POSSIBLE, AS I HAVE ALREADY INDICATED, TO REQUIRE RECREATIONAL VESSEL OPERATORS WITHIN THE THREE MILE LIMIT TO BE LICENSED OR TO APPLY OTHER CONTROLS WHICH PLACE AN OBLIGATION ON RECREATIONAL BOAT OPERATORS TO KEEP A LOOKOUT FOR, AND STAY CLEAR OF, SWIMMERS IN THE WATER.

THE ONLY RECREATIONAL BOATING STANDARDS WHICH THE LEGISLATION AS IT STANDS, ALLOWS TO BE ENFORCED ARE THE SAFETY EQUIPMENT REGULATIONS.

THE LACK OF LICENSING REQUIREMENT ALSO PUTS AT RISK THE FULL EFFECTIVENESS OF THE GOVERNMENT'S MARINE (BOATING SAFETY - ALCOHOL AND DRUGS) ACT, 1991 IN ITS APPLICATION TO UNLICENSED OFFSHORE BOAT OPERATORS BECAUSE A PRINCIPAL SANCTION AGAINST DRINK-DRIVING IS THE POWER TO CANCEL BOAT OPERATOR'S LICENCES.

THE NEED TO ENSURE THAT OFFSHORE BOATING IS SUBJECT TO THE SAME SAFETY RULES AS IN THE REST OF THE STATE WAS RECENTLY CONSIDERED BY THE NSW BUSINESS DEREGULATION REVIEW UNIT. IN ITS REPORT ON REGULATIONS AND POLICIES AFFECTING BOATING IT RECOMMENDED EXTENDING THE APPLICATION OF BOATING REGULATIONS INTO OFF-SHORE WATERS. THE APPROPRIATE VEHICLE FOR THIS IS THE MARITIME SERVICES ACT ADMINISTERED BY THE MARITIME SERVICES BOARD.

THE BILL BEFORE THE HOUSE WILL ENHANCE THE LEVELS OF SAFETY ENJOYED BY BOATERS AND SWIMMERS ALIKE AND IN FUTURE THE REGULATIONS WILL BE EASIER OF THE STATE'S WATERS TO COMPREHEND AS THEY WILL BE COMMON FOR ALL WATERS.



A SINGLE REGULATORY REGIME IN BOTH ENCLOSED AND OFFSHORE WATERS WILL ENABLE IMPROVEMENTS TO SAFETY REGULATIONS TO BE PREPARED AND INTRODUCED IN A MORE TIMELY AND CONSISTENT MANNER THAN AT PRESENT.

THIS INITIATIVE WILL ENABLE IMMEDIATE ACTION IN THE IDENTIFIED AREAS OF CONCERN AS WATERWAYS AUTHORITY OFFICERS, COUNCIL RANGERS AND POLICE WILL ALL BE EMPOWERED TO ENFORCE THE REGULATIONS USING EXISTING RESOURCES, BOTH PERSONNEL AND EQUIPMENT. THE LEGISLATION WILL NOT RESULT IN ANY ADDITIONAL COSTS AND ACCORDINGLY THERE WILL BE NO FEED TO INCREASE REGISTRATION OR LICENCE FEES.

THE GOVERNMENT RECOGNISES THAT THIS LEGISLATION MAY GENERATE SOME OPPOSITION FROM A COMPARATIVELY SMALL NUMBER OF BOAT OWNERS AND OPERATORS WHO HAVE, UNTIL NOW, NOT BEEN REQUIRED TO BE LICENSED OR TO REGISTER THEIR VESSELS AND THEREFORE HAVE NOT HAD TO PAY ANY BOATING FEES. IN THE PAST THESE BOATERS HAVE NOT CONTRIBUTED A CENT TOWARDS THE SIGNIFICANT COST THAT THEIR FELLOW MEMBERS OF THE BOATING COMMUNITY AND THE GOVERNMENT MUST MEET EACH YEAR TO PROVIDE NAVIGATION AIDS AND ESTUARINE AND OCEAN BOAT LAUNCHING RAMPS, AND IT IS ONLY FAIR THAT ALL BOATERS SHOULD CONTRIBUTE TO THE COST OF THESE FACILITIES.

I AM SURE THAT HONOURABLE MEMBERS WILL AGREE WITH ME THAT THE GOVERNMENT HAS AN OBLIGATION TO REGULATE THE SAFETY RELATED ACTIVITIES FOR RECREATIONAL BOATERS OFFSHORE. THIS LEGISLATION WILL ENSURE THAT THIS OBLIGATION CAN BE FULFILLED IN A SENSIBLE AND COST EFFECTIVE MANNER.

I COMMEND THE BILL TO THE HOUSE.

