

Our reference : SR883: DOC09/7674
Contact : Mark Villa ☎ (02) 9995 6814

26 March 2009

Mr B Fairweather
Senior Engineer
Steensen Varming (Australia) Pty Limited
160 Sailors Bay Road
NORTHBRIDGE NSW 2063

Dear Mr Fairweather

**HARBOUR WATER HEAT EXCHANGE SYSTEM
MUSEUM OF CONTEMPORARY ARTS EXTENSION**

I refer to your electronic correspondence of 3 February 2009 seeking information on the approval requirements of the Department of Environment and Climate Change (DECC) for a heat exchange system utilising water from Sydney Harbour, and the use of antifouling water treatment products. I apologise for the delay in replying.

The *Protection of the Environment Operations Act 1997* (the POEO Act) provides for the licensing of certain activities and works. The activities for which an environment protection licence is required are set out in Schedule 1 of the POEO Act. The POEO Act also permits, but does not require, a licence to be issued to control the carrying out of non-scheduled activities for the purpose of regulating water pollution resulting from any such activity (water pollution regulation licence). Generally, water pollution regulation licences are not issued for the operation of cooling systems.

The project, as described in your correspondence, is not a scheduled activity and will not require an environment protection licence. However, although the project does not require licensing under the POEO Act, the heat exchange system must be operated in accordance with the general environment protection provisions of the POEO Act, and in accordance with the provisions of the *Pesticides Act 1999*.

The provisions of the POEO Act include a prohibition on the pollution of waters. Any thermal waste, being any liquid which, after being used in, or in connection with, any activity, is more than two degrees Celsius hotter or colder than the water into which it is discharged, is prescribed matter for the purposes of the definition of water pollution.



The *Pesticides Act* provides that pesticides must be used in accordance with the instructions on an approved label for the pesticide or in accordance with a permit issued pursuant to Part 7 of the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994* of the Commonwealth (the Agvet Code). DECC notes that the Australian Pesticides and Veterinary Medicines Authority (APVMA) has issued a permit under the Agvet Code, Permit Number PER11158, for Mexel 432 Dispersant.


Permit PER11158 allows the indicated supplier to possess and to supply Mexel 432 Dispersant to persons who can use the product under permit. The permit also allows a stipulated person to use the product in the manner specified in the permit in the designated jurisdictions. NSW is a designated jurisdiction. You should ensure that the premises at which the product is to be used is one of the selected treatment sites referred to in the permit.

In relation to your other enquiries, the APVMA assesses and registers pesticides before they are permitted to be used in NSW. DECC regulates the use of pesticides in NSW from the point of sale onwards. DECC does not approve specific products for use in industrial or commercial operations, but does provide advice to authorities such as the APVMA during the pesticide assessment and registration process. The APVMA may be able to provide you with a list of products suitable for your proposal that are registered for use in NSW. Contact details for the APVMA can be found on its website at <http://www.apvma.gov.au/index.asp>.

Provided an approved product is used in accordance with the instructions on the product label and / or with the conditions of any permit applicable to that product, and in compliance with the provisions of the POEO Act and the *Pesticides Act*, you do not require further approval from DECC to use the product.

Should you require any further advice in this matter, please contact Mark Villa on 02 9995 6814.

Yours sincerely



GILLIAN REFFELL
Head Metropolitan Infrastructure Unit
Environment Protection and Regulation