ACT Government
Environment and Planning

Energy Efficiency Improvement Scheme

Regulatory Impact Statement

Prepared in accordance with Chapter 5 of the *Legislation Act 2001*

Introducing Commercial Lighting Activity and other updates to disallowable instruments:

Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2016

Energy Efficiency (Cost of Living) Improvement (Record Keeping and Reporting) Code of Practice 2016

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Executive Summary

Background

The *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act) was passed by the Legislative Assembly on 3 May 2012. The Act establishes the Energy Efficiency Improvement Scheme (EEIS), which is a retailer obligation energy efficiency scheme. EEIS was initially legislated to run until 31 December 2015. On 4 August 2015, the Legislative Assembly passed the *Energy Efficiency (Cost of Living) Improvement Amendment Act 2015* which amended the Act to continue the EEIS to 31 December 2020.

Key elements of the EEIS extension were to expand the set of EEIS approved activities to include business lighting measures, other commercial activities and further new priority activities, thereby extending scheme benefits to the commercial sector and increasing competition among retailers and abatement providers. Potential new activities were included in the modelling for the extended EEIS, as described in the 2015 Regulatory Impact Assessment *Energy Efficiency Improvement Scheme: Setting Key Parameters to 2020* [1] (the Scheme Extension RIS).

This Regulatory Impact Statement (this RIS) analyses the financial and non-financial impacts on society from updates to the following two disallowable instruments:

- *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2016; and*
- *Energy Efficiency (Cost of Living) Improvement (Record Keeping and Reporting) Code of Practice 2016*.

This RIS is prepared in accordance with Part 5.2 of the *Legislation Act 2001* for establishing codes of practice under Section 25 of the Energy Efficiency Act. Section 25 establishes a range of purposes for codes of practice and these updates to disallowable instruments are consistent with those purposes.

Consultation

Extensive consultation has been undertaken towards the proposed disallowable instrument updates.

Stakeholder forums held in 2014, 2015 and 2016 all supported the general approach of the EEIS including the statutory retailer energy savings obligation scheme and its supporting subordinate legislation. Stakeholders support the introduction of the commercial lighting activity, commercial refrigerated display cabinet activity and updates to codes of practice

[1] http://www.environment.act.gov.au/__data/assets/pdf_file/0006/735990/Attachment-C-Regulatory-Impact-Satement-EEIS-Parameters-to-2020-FINAL.pdf

for other activities included here. The *EEIS 2016 Stakeholder Forum Report on Feedback*[2] provides details.

There has been focused consultation on elements of the disallowable instrument updates that are most likely to be picked up by stakeholders in extending opportunities for delivering eligible activities. Those elements include the codes of practice to support the new commercial lighting and refrigerated display cabinet activities as well as the new codes of practice for the pre-existing exhaust fan sealing activity. This focused consultation has been undertaken with internal (ACT government) stakeholders including the Actsmart program teams, Access Canberra, Canberra Institute of Technology and others within the Environment and Planning Directorate. External stakeholders involved in focused consultation include the Tier 1 retailer (ActewAGL Retail), energy efficient product suppliers and policy developers for the Victorian Energy Efficiency Target (VEET), New South Wales Energy Saving Scheme (NSW ESS) and South Australian Retailer Energy Efficiency Scheme (REES).

The consultation undertaken on the proposed disallowable instrument updates has confirmed that these new and amended codes of practice will ensure that EEIS continues to achieve its targets safely, while extending outcomes into new activities.

Complementarity

The EEIS compliments many broader ACT government policy objectives including the ACT Strategic Priority of enhancing liveability and social inclusion, by helping households and businesses to reduce emissions and energy costs.

The EEIS strongly compliments other targets, policies and programs to achieve greenhouse gas emission reductions, especially those established in the *Climate Change and Greenhouse Gas Reduction Act 2010* (the CCGGR Act) as updated in April 2016. The CCGGR Act targets are listed here, together with a description of how EEIS assists in their achievement:

- 40% reduction of 1990 emission levels by 2020 and zero net greenhouse gas emissions by 2050 – EEIS activity abatement values are based on emission savings, not just energy savings. Because of this, EEIS provides clear and material incentives for undertaking activities that minimise emissions.
- Peaking per capita emissions by 2013 – ACT per capita emissions continue to be lower than 2013 levels, but rose in 2014-2015 compared with the previous year[3]. Ongoing work is needed to retain low per capita emissions and EEIS reduces these by requiring energy retailers to continually reduce the emissions of energy end users.
- 100% renewable energy by 2020 target – while green energy is doing the heavy lifting to meet the 100% renewable energy target, EEIS also has a role. The less

[2] http://www.environment.act.gov.au/energy/smarter-use-of-energy/energy_efficiency_improvement_scheme_eeis
[3] See http://www.environment.act.gov.au/cc/acts-greenhouse-gas-emissions

energy used in the ACT, the less investment is needed to secure renewable supplies. In addition, savings from EEIS are helping to offset the costs of the renewable energy target.

EEIS also complements other interstate energy efficiency obligation schemes. This complementarity was formalised in April 2016 with the notification of the *Energy Efficiency (Cost of Living) Improvement (Interstate Energy Efficiency Schemes) Approval 2016 (No 1)* which formally approves equivalent schemes in Victoria, New South Wales and South Australia to further reduce costs for households and businesses and to improve consistency across states and territories. The proposed updates to disallowable instruments enhance interjurisdictional consistency and harmonisation by carrying updates and established elements from other schemes into the EEIS where relevant. For instance, the Victorian Energy Efficiency Target Scheme (VEET) has been the national leader in residential lighting activities and the updates in these disallowable instruments bring EEIS activities in line with the latest changes to VEET residential lighting. Meanwhile, NSW ESS has seen the biggest roll-out of commercial lighting activities and the new EEIS commercial lighting activity makes direct use of the ESS commercial lighting abatement calculation tools.

Outline of changes from previous instruments

This Regulatory Impact Statement explains three types of changes made to to two disallowable instruments. The two instruments are the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2015 (No 1)* and *Energy Efficiency (Cost of Living) Improvement (Record Keeping and Reporting) Code of Practice 2015 (No 1)*. The types of changes include:

- updates to existing sections to bring them up to current best practice standards;
- additions to codes of practice to establish:
    - new activities; and
    - codes of practice for existing EEIS activities that had not previously been supported by such codes; and
- deletions of codes of practice for activities which have been removed from the EEIS list of approved activities, because the ACT 100 per cent renewable energy target means that these activities now deliver negative abatement.

Table 1 outlines the parts of previous iterations of the disallowable instruments to which these changes apply.

Table 1 Summary of new approved activities and updates to other activities

	Changes to the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2015 (No 1)*	**Changes to the *Energy Efficiency (Cost of Living) Improvement (Record Keeping and Reporting) Code of Practice 2015 (No 1)***
Update sections to current best practice	• Some references to standards have been updated • Two-year product warranties are included for relevant activities • Requirements for ventilation have been simplified in building sealing activities • New dictionary definitions are included to support the new activities and codes of practice	• Some references to standards have been updated • The timing of the Administrator's confirmation of Compliance Period Reports has been extended slightly • The dictionary has been updated to support the new activities and codes of practice
Add codes of practice for new activities and for current activities without established codes	**Codes of practice for new activities** • Commercial lighting upgrades • High efficiency refrigerated display cabinets **Codes of practice for existing activities** • Exhaust fan sealing • Install a thermally efficient window • Retrofit thermally efficient glazing • Install thermally efficient window coverings • Install window pelmets • Purchase a high efficiency clothes dryer	**Codes of practice for new activities** • Commercial lighting upgrades • High efficiency refrigerated display cabinet
Delete existing codes of practice for activities removed due to negative abatement	• Hot water tap improvement • Decommission a central electric space heater and install a high efficiency ducted gas heater • Install a gas or liquid petroleum gas space heater • Decommission and replace electric resistance water heater with a natural gas or liquefied petroleum gas storage water heater	• Hot water tap improvement • Decommission a central electric space heater and install a high efficiency ducted gas heater • Install a gas or liquid petroleum gas space heater

Overview of modelling

Detailed modelling was undertaken by Energetics Pty Ltd (Energetics) to determine the impact of continuing the EEIS to 2020. This modelling builds on previous work undertaken by Energetics to establish the original scheme and extend the EEIS to the non-residential sector. Further detail is provided in the Scheme Extension RIS.

Additional modelling has also been undertaken to estimate the value of the Commercial Lighting Activity as a specific new eligible activity. Modelling results suggest that the inclusion of the commercial lighting activity will deliver benefits of approximately $4 million per year in energy savings. This is the difference in the net present value to the economy for the scheme, with or without commercial lighting, using the relevant abatement targets.

The authorising law

The authorising law is the *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act). The Act was passed by the Legislative Assembly on 3 May 2012. The Act establishes the Energy Efficiency Improvement Scheme (EEIS), which is a retailer obligation energy efficiency scheme. The EEIS was initially legislated to run until 31 December 2015. On 4 August 2015, the Legislative Assembly passed the *Energy Efficiency (Cost of Living) Improvement Amendment Act 2015* which amended the Act to continue the EEIS to 31 December 2020.

The objectives of this Act are to:

a) encourage the efficient use of energy; and
b) reduce greenhouse gas emissions associated with stationary energy use in the Territory; and
c) reduce household and business energy use and costs; and
d) increase opportunities for priority households to reduce energy use and costs.

The Act establishes a Territory-wide Energy Savings Target (EST) which correlates to mandatory energy savings obligations for individual electricity retailers based on their electricity sales in the ACT. The specific level of the EST, and other EEIS targets, are set by disallowable instruments for each compliance period, defined as a calendar year. The current EST is set by the *Energy Efficiency (Cost of Living) Improvement (Energy Savings Target) Determination 2015 (No 1)* (DI2015-268).

Retailer obligations

The individual retailer obligation is represented in tonnes of CO_2-e, calculated using the following formula:

Obligation (tonnes CO_2-e) = Energy Savings Target (%) x Emissions Multiplier x Retailer Sales (MWh)

The Emissions Multiplier has been set by the *Energy Efficiency (Cost of Living) Improvement (Emissions Multiplier) Determination 2015 (No 1)* at 0.4 for each compliance period 2016 to 2020. This is equal to the modelled average grid intensity of carbon dioxide equivalent (CO_2-e) for the period. The Energy Savings Target has been set by the *Energy Efficiency (Cost of Living) Improvement (Energy Savings Target) Determination 2015 (No 1)* at 0.86 for each compliance period 2016 to 2020. Energetics modelling presented in the scheme extension

RIS suggests that this target optimises the net present value for the scheme by delivering the maximum community benefit, limiting pass-through costs, achieving value for money and limiting risks.

The Retailer Sales component of the retailer obligation has two implications for retailers. It determines whether they are a Tier 1 or Tier 2 retailer and therefore whether they are obliged to deliver abatement through approved activities. It also determines the amount of their obligation. Retailers are defined as being either Tier 1 or Tier 2 as follows:

Tier 1 Retailer:

- Electricity sales of 500,000MWh or greater to customers in the ACT in a compliance year; and
- Greater than 5, 000 customers in the ACT.

Tier 2 Retailer:

- All other retailers.

In order to meet their energy savings obligation, Tier 1 retailers must undertake eligible energy saving activities approved under the Act. Tier 1 retailers are also obliged to achieve a proportion of their energy savings obligation in low-income households, as determined by the Minister by Disallowable Instrument. The Minister determined the Priority Household Target to be 20 per cent of the energy savings obligation for both the 2016 and 2017 compliance years by *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2015* and *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2016*. This is calculated under section 15 of the Act and the target will continue to be reviewed annually.

Tier 2 retailers may choose to undertake eligible energy saving activities or they may pay a contribution fee set at the expected average cost of abatement for a Tier 1 retailer. The contribution is set by the Minister by disallowable instrument, based on the estimated average cost of compliance for a Tier 1 retailer. This provides a simplified obligation for smaller retailers who may not have the customer base or resources in the ACT to fully participate in the Scheme and who may be discouraged from participating in the ACT market if required to undertake activities. This equalises the cost of participation for all retailers and, in turn, mitigates potential adverse effects of the Scheme on competition in our retail electricity market. The Minister determined the Energy Savings Contribution at $116 per tonne of carbon dioxide equivalent greenhouse gas emissions energy savings obligation as calculated under section 13 of the Act for each compliance period from 1 January 2016 to 31 December 2020 by the *Energy Efficiency (Cost of Living) Improvement (Energy Savings Contribution) Determination 2015 (No 1)*.

In order to ensure reasonable incentives exist for Tier 1 suppliers to undertake abatement activities, the penalty for not achieving the abatement target is set slightly higher than the expected maximum price a retailer will pay per tonne of abatement. The Minister

determined the shortfall penalties for noncompliance to be $300 per tonne of carbon dioxide equivalent greenhouse gas emissions energy savings for each compliance period from 1 January 2016 to 31 December 2020 by the *Energy Efficiency (Cost of Living) Improvement (Penalties for Noncompliance) Determination 2015 (No 1)*.

Eligible activities and activity abatement values

Section 10 of the Act allows the Minister to approve a Notifiable Instrument to determine eligible activities which retailers may undertake to meet their obligation under the EEIS. This Notifiable Instrument is the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2016* (the eligible activities determination). The eligible activities determination also establishes the Activity Abatement Values (AAVs) that apply for each eligible activity and which are used to award abatement to retailers in order to meet their energy savings obligation. An update to the eligible activities determination has been tabled together with the two disallowable instruments covered by this Regulatory Impact Statement.

The EEIS has been developed to align closely with other energy efficiency schemes in Australia. While the EEIS is a non-certificate market based scheme, due to the small size of the ACT economy, the activity and eligible product requirements align with those of other jurisdictions where possible. This simplifies retailer participation, with many retailers in the ACT also operating in other jurisdictions.

The updates to the eligible activities determination together with these disallowable instruments aim to enhance harmonisation with other approved interstate energy efficiency obligation schemes and maximise the accuracy of abatement awarded under the EEIS. The activity of installing standby power controllers, for instance, has been made consistent with current Victorian standards for the same activity. Harmonisation is also achieved by delaying updates to a range of building envelope sealing activities which are currently under review for the Victorian Energy Efficiency Target Scheme (VEET). Delaying changes to these activities will minimise the number of updates required to achieve accurate and harmonised abatement values and this will maximise retailer capacity to plan for EEIS activity implementation across business cycles.

The updates to the eligible activities determination also adjust baselines which were previously based on Victorian climatic conditions and building stock so that they better reflect the conditions in the ACT. As with other approved interstate schemes, the EEIS activity abatement values will continue to be updated when baseline assumptions require it. For instance, if Australia's Minimum Energy Performance Standards make current activities redundant, then the presence of those activities in the scheme and/or their abatement values will be reviewed.

It is worth noting that the baseline updates retain the same assumptions for grid intensities that were used in modelling the scheme outcomes. Further, the Administrator has made a

policy decision to retain these original modelled grid intensity values for the life of the scheme, despite the ACT 100 per cent renewable energy target which was announced in May 2016 (ACT 100% RET). The ACT 100% RET affects the EEIS results since activities that save electricity deliver less abatement the more the grid is decarbonised.

The option of retaining modelled grid intensities for the calculation of AAVs in the eligible activities determination maximises EEIS potential to achieve the net present value benefits to the ACT economy that were modelled for the scheme extension. This is because the broad scheme metrics such as the Energy Savings Target, Emissions Multiplier and Retailer Energy Savings Obligation will continue to work as intended. Retaining modelled grid intensities also delivers business certainty and administrative efficiency by avoiding the need to update AAVs whenever new models are presented for the ACT grid intensity, which will occur regularly as the ACT approaches its new 100% RET. Despite the retention of the grid intensities that were modelled on the basis of an ACT 90% RET, EEIS results can still be reported using empirical grid intensity data. Thus the benefits of retaining the originally modelled grid intensities can be achieved without a loss of reporting accuracy.

Codes of practice

The updates to disallowable instruments that are the subject of this RIS are made under Section 25 of the Act, which provides for the administrator to approve codes of practice (approved codes of practice) by a disallowable instrument. These codes of practice may relate to the following:

a) consumer protection obligations;
b) quality, health, safety and environmental requirements applying to eligible activities;
c) the eligibility of approved abatement providers;
d) the acquisition of approved abatement factors;
e) record keeping requirements;
f) reporting requirements; and
g) carrying out an audit of information given to the administrator under section 19 (Information to be given to administrator), including the following:
    i) purpose of the audit;
    ii) qualifications of auditors;
    iii) appointment of auditors;
    iv) removal of auditors;
    v) obligations of auditors; and
    vi) reporting requirements for auditors.

Policy objectives of the disallowable instruments and the reasons for them

Key policy objectives of the disallowable instruments are to:

1. extend the number and range of EEIS activities, including introducing a commercial lighting activity; and
2. improve accessibility, transparency and accountability of the subordinate legislation for EEIS approved activities.

Extending the number and range of EEIS activities to the commercial sector helps to achieve the (Section 6) objects of the Act which include encouraging the efficient use of energy, reduce greenhouse gas emissions to reduce business energy use and costs. The policy objectives of the scheme extension included a specific goal of introducing a commercial lighting activity (Scheme Extension RIS page 3).

The objective of improving accessibility, transparency and accountability of EEIS subordinate legislation for approved activities is consistent with the principles of best practice regulatory policy[4]. The iterations of the disallowable instruments in place before these updates contain some gaps and inconsistencies between the two disallowable instruments, the eligible activities determination and other approved interstate schemes which are inconsistent with best practice regulation.

Achieving the policy objectives

The disallowable instruments achieve the policy objectives of introducing new activities by bringing in new commercial lighting and the installation of refrigerated display cabinet activities. Both of these new activities target the commercial sector and they are the first EEIS activities to do so.

Gaps and inconsistencies that are addressed in these updated disallowable instruments include:

- some codes of practice *are not* included in previous iterations of the disallowable instruments for activities that *are* included in the eligible activities determination. This is because codes have only recently been developed for the first time for some activities. Codes of practice for activities provide the transparency and accountability needed by energy retailers to effectively develop business plans to deliver approved activities. Codes of practice are included for the first time for the following activities:
    - exhaust fan sealing;
    - install a thermally efficient window;
    - retrofit thermally efficient glazing;
    - install thermally efficient window coverings;

[4] Source: Productivity Commission 2002, Regulation and its Review 2001–02, Annual Report Series, Productivity Commission, Canberra

- install window pelmets; and
- purchase a high efficiency clothes dryer.

- some codes of practice *are* included in previous iterations of the disallowable instruments for activities that *are not* now included in the eligible activities determination. Those activities were removed by the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities Determination 2015 (No 2)* because the ACT 90% RET, which has since been increased to 100%, meant that they delivered negative abatement and this is the first opportunity to remove these activities from the disallowable instruments. Removing codes of practice for activities that are no longer eligible under EEIS improves accountability by removing ambiguity and inconsistencies in the instruments which may otherwise leave scheme operations open to appeal and review; and

- other updates made in approved interstate energy efficiency schemes and in the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities Determination 2015 (No 2)* are yet to be reflected in the disallowable instruments. These include updates to relevant Australian and international standards and dictionary definitions relevant to the introduction of the commercial lighting activity. Harmonising with other schemes improves accessibility and transparency because it provides stakeholders with additional options for exploring, understanding and upskilling to take advantage of ACT energy saving opportunities.

Consultation

There has been extensive consultation on these updates to disallowable instruments. This includes the following:

- ten written submissions were received to a stakeholder consultation forum held in 2014. Respondents expressed support for expanding the number and range of activities, particularly to include commercial lighting. Details of this feedback are on pages 30-37 of the 2015 Regulatory Impact Assessment *Energy Efficiency Improvement Scheme: Setting Key Parameters to 2020*[5] (the Scheme Extension RIS);
- the *Scheme Extension RIS* also presented modelling results which included commercial lighting, commercial refrigeration, expansions to space and water heating and other activities included here. The sooner these activities are brought in, the more accurate will be the modelled results for savings to be gained from the EEIS;

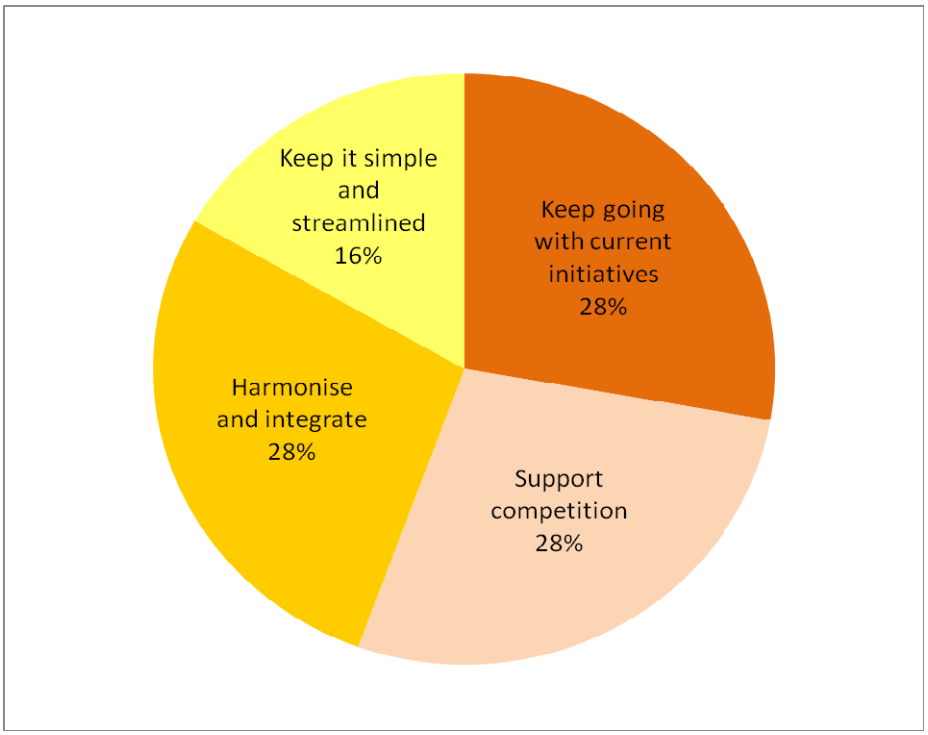
[5] http://www.environment.act.gov.au/__data/assets/pdf_file/0006/735990/Attachment-C-Regulatory-Impact-Satement-EEIS-Parameters-to-2020-FINAL.pdf

- a Stakeholder Forum held in September 2015 attracted 57 registrations. The *EEIS Stakeholder Forum Report on Results*[6] shows each of the new and updated activities included here to be high priorities for stakeholders (page 9);
- the *EEIS Stakeholder Consultation on 2016 Activities Update*[7] was emailed to all energy efficiency scheme stakeholders in Victoria, New South Wales and the ACT. The ACT Stakeholder list includes 200 names and a similar or greater number are likely on the lists from the other states. They include energy retailers, abatement providers, government agencies, industry peak bodies and non-government organisations including both environment and social services groups;
- the *EEIS Stakeholder Consultation on 2016 Activities Update* report was also provided in hard copy to 68 participants at the 2016 EEIS Stakeholder Forum. The report was also the focus of discussion at the 2016 forum. It included details on all of the activities proposed in the DI and invited feedback;
- government agencies attending the EEIS 2016 Stakeholder Forum included the:
    - Australian Department of the Environment;
    - Australian Department of Industry, Innovation and Science;
    - AusIndustry Business Services;
    - ACT Environment and Planning Directorate;
    - ACT Education and Training Directorate;
    - ACT Justice and Community Safety Directorate; and
    - ACT Office of the Commissioner for Sustainability and the Environment;
- forum notes, including results of workshop discussions, have been recorded from the 68 participants at the 2016 EEIS Stakeholder Forum. Seventeen written responses were also received on the specific proposals. These responses have been considered in developing the disallowable instruments.

Figure 1 below summarises stakeholder key messages for EEIS provided in feedback to the 2016 stakeholder forum. These messages emphasise support for continuation, competitiveness, harmonisation and simplicity. This feedback confirms stakeholder support for the specific changes being made in the proposed updates to the disallowable instruments addressed in this RIS.

[6] http://www.environment.act.gov.au/__data/assets/pdf_file/0004/798232/EEIS-Report-on-EEIS-Stakeholder-Forum,-3-September-2015.pdf
[7] http://www.environment.act.gov.au/__data/assets/pdf_file/0008/857789/ACT-EEIS-Stakeholder-Consultation-on-2016-activities-update-report-2.pdf

Figure 1 Stakeholder key messages for EEIS



Focused consultation on the codes of practice for exhaust fan sealing activities has been undertaken in advance of the disallowable instrument updates because the ACT Tier 1 retailer (ActewAGL Retail) has commenced undertaking that activity. This consultation included both the Tier 1 retailer, policy developers for the Victorian Energy Efficiency Target, product suppliers, Access Canberra and other stakeholders within the Environment and Planning Directorate.

Focused consultation, based on the detail of the updated disallowable instrument, has also been undertaken on the commercial lighting and refrigerated display cabinet activities. Internal consultation has included Actsmart household and business teams, EPD Climate Change, EPD Energy and Waste Policy, ACT Property Group, Access Canberra, the Building Policy section of Environment and Planning Directorate and relevant experts from the Canberra Institute of Technology.

External consultation based on the detail of the updated disallowable instrument has been undertaken with several parties. These include:

- administrators of approved interstate schemes;
- in particular, the administrators of the NSW Energy Saving Scheme, since the proposed new ACT commercial lighting activity makes use of elements of the NSW method. Arrangements for using this method are supported by the recent ACT approval of interstate energy efficiency schemes, under the *Energy Efficiency (Cost of*

Living) Improvement (Interstate Energy Efficiency Schemes) Approval 2016 (No 1), NI 2016-186. Practicalities of these arrangements are detailed in a draft Memorandum of Understanding between the Australian Capital Territory and New South Wales;

- relevant experts from the Canberra Institute of Technology; and
- three energy retailers that had expressed an interest in the commercial lighting and refrigerated display cabinet activities.

Consistency of the disallowable instrument with the authorising law

The disallowable instruments are consistent with the objects of the Act to encourage the efficient use of energy, reduce greenhouse gas emissions associated with stationary energy use in the Territory and reduce household and business energy use and costs. In particular, for the first time, these disallowable instruments support activities that are likely to be taken up by industries and will therefore reduce business energy use and costs.

Section 25 of the Act explicitly provides for the administrator to approve codes of practice for a range of purposes including the following:

a) consumer protection obligations;
b) quality, health, safety and environmental requirements applying to eligible activities;
c) the eligibility of approved abatement providers;
d) the acquisition of approved abatement factors;
e) record keeping requirements;
f) reporting requirements; and
g) carrying out an audit of information given to the administrator under section 19 (Information to be given to administrator), including the following:
    i) purpose of the audit;
    ii) qualifications of auditors;
    iii) appointment of auditors;
    iv) removal of auditors;
    v) obligations of auditors; and
    vi) reporting requirements for auditors.

The disallowable instrument is not inconsistent with the policy objectives of another Territory law

The proposed law is not inconsistent with the policy objectives of another Territory law.

Reasonable alternatives to the disallowable instrument

The codes of practice that are updated by these disallowable instruments are consistent with the purposes stated in Section 25 and no reasonable alternatives are provided for in the Act for achieving the purposes ascribed to codes of practice.

One possible alternative would be to use the generic provisions within the current iterations of the codes of practice to support the delivery of new and existing activities. However, these are insufficient to support the complex safety, accountability, record keeping and other requirements associated with each activity. As an example, the commercial lighting method is harmonised with NSW ESS to the extent that the NSW scheme's online tools are used to calculate abatement under the EEIS. This brings in the need to ensure that both activity and record keeping codes of practice are in line with the NSW requirements.

Another possible alternative would be to refer to codes of practice that apply to other schemes, instead of developing stand-alone ACT codes. This option is constrained because of different statutory requirements associated with EEIS activity delivery in the ACT compared with other jurisdictions. For instance, some activities that can be completed by an experienced tradesperson in other jurisdictions require a licensed operator in the ACT. The record keeping requirements in ACT also differ from other schemes because ESS and VEET use abatement certificate registries, but no such registry exists for the EEIS.

In summary, the updates to disallowable instruments are explicitly provided for in the authorising law, and no reasonable alternatives exist.

Assessment of benefits and costs of the disallowable instruments

The codes of practice will have an economic benefit as a result of maximising the benefits of the EEIS, including through facilitating the inclusion of new activities. Modelling suggests that the inclusion of the commercial lighting activity will deliver energy saving of approximately $4 million per year.

Modelling results published in the Scheme Extension RIS indicate that continuing the scheme to 2020 will have significant positive economic benefits. This modelling was undertaken with the assumption that the commercial lighting activity would be in place from 2016.

The projected benefits from the EEIS extension include average lifetime bill savings for the ACT residential sector estimated at $106 million in present value terms. Benefits to ACT businesses are estimated at $192 million in present value terms. Taking account of all costs to retailers, government and all stakeholders, the expected overall result in net present value to the ACT economy is $38.9 million.

Timely adoption of new activities, especially commercial lighting is important to maximise the economic EEIS benefits to the ACT economy.

Summary of household costs and benefits

Modelling at the current target level demonstrates net-savings for households on average – noting that, as not all households will participate, actual household savings for participating households are expected to be higher – as has been observed in the first three years of the EEIS. It is important to note that while costs associated with the scheme will end with the end of the scheme, savings will continue to accrue for the lifetime of the implemented measures. Aggregate lifetime bill savings for the Residential sector are estimated at $106 Million in present value terms.

ES 1: Summary of household costs and benefits

Average household price increase	Average bill Cost 2016 - 2020 ($/week)	Average residential bill savings in 2020 ($/Week)
2.32%	$0.62	$3.19

In addition, due to the design of the Scheme, which requires that a proportion of total Tier 1 retailer energy savings be achieved in priority households, a defined proportion of the benefits will continue to accrue in these households – in proportion with the Priority Household Target.

Summary of business costs and benefits

Estimated average costs to the non-residential sector are more difficult to determine due to the significant differences in energy use between different businesses. The impacts for various business electricity spends are outlined below. Total bill savings accruing in this sector over the lifetime of measures implemented under the EEIS are estimated at $192 Million in present value terms.

ES 2: Range of business pass-through costs

	Annual business electricity spend of $1,000	Annual business electricity spend of $10,000	Annual business electricity spend of $100,000	Annual business electricity spend of $1,000,000
Annual Costs	$15	$151	$1,514	$15,143

Summary of commercial lighting energy efficiency upgrades

The benefits of the commercial lighting upgrades to business in particular have been modelled by Energetics in 2016 as part of a project to explore the costs and benefits to stakeholders, associated with individual activities. The modelling shows that that omitting commercial lighting results in a lower NPV to the ACT economy. Modelling results suggest that the inclusion of the commercial lighting activity as an eligible activity will deliver

benefits of approximately $4 million per year in energy savings. This is the difference in the net present value to the economy for the scheme, with or without commercial lighting, using the relevant abatement targets.

The risk of excluding commercial lighting upgrades is that the Tier 1 retailers will be heavily penalised as they will be required to implement measures that are much more costly than the Tier 2 retailer contribution. There will also be a significant transfer of funds from the business sector to the residential sector in the absence of commercial lighting upgrades because the business sector will not have many measures that electricity retailers will want to implement.

Table 3: Costs and benefits of the commercial lighting (CL) activity

Parameter	**Unit**	**With CL**	**Without CL**
Incentive price cap including admin fees	$/t$CO_2$-e	$116	$337
Program abatement	ktCO_2-e	504	504
ACT economy NPV	$'000	$47,223	$43,109
Relative receipt of savings			
Residential		62%	92%
Business (excluding lighting)		7%	8%
Commercial lighting		30%	0%

(Totals may not sum to 100% due to rounding)

It is worth noting that the outcomes from the consultation process suggest that the ACT commercial lighting activity may be less viable than anticipated. This is for two main reasons:

1. The ACT 100% RET means that less abatement is achieved for activities that save electricity (not gas) than in other schemes, because a decarbonised grid means fewer emission reductions are achieved by saving electricity. This is reflected in the Emissions Multiplier of 0.4, which is lower than in other schemes with abatement targets measured in CO_2-e abatement targets.
2. The NSW and South Australian schemes apply an “Air Conditioning Factor” to commercial lighting which recognises that efficient lights generate less heat in buildings, and therefore save on air conditioning costs. The VEET scheme applies a lower Air Conditioning Factor of 1.05 following empirical research showing that air conditioning savings are less in the colder Victorian climate. While equivalent

empirical research has not been undertaken in the ACT, the Canberra climate is well accepted to be colder than both the NSW and South Australian average. Expert opinion obtained in consultation confirmed that the Victorian multiplier would be more accurate for the ACT than that used in NSW and South Australia.

Despite these concerns, the introduction of a commercial lighting activity remains a priority due to the established policy position of bringing in this activity. Early introduction also means that commercial lighting can be realistically compared with other alternative activities that may provide higher abatement in the ACT compared with other schemes, precisely because of the low grid intensity of CO_2-e, and the cold Canberra climate. In particular, many activities that deliver space and water heating provide proportionally higher abatement in EEIS than in the other jurisdictions precisely because of the low grid intensity and cold Canberra climate and are worthy of consideration by retailers. Future iterations of the disallowable instruments are planned which will provide further opportunities in these activity areas, as flagged in the *EEIS Stakeholder Consultation on 2016 Activities Update.*

Human Rights

The determination does not affect any human right set out in the *Human Rights Act 2004*.

Assessment of the consistency of the proposed law with Scrutiny of Bills Committee principles

The Committee's terms of reference require it to consider whether (among other things):

(a) any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):

i) is in accord with the general objects of the Act under which it is made;

ii) unduly trespasses on rights previously established by law;

iii) makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions; or

iv) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

(a) Disallowable instruments are in accord with the general objects of the Act under which it is made

The instruments are in accord with the objects of the *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act). The relevant disallowable instruments support the achievement of the objects of the Act, namely:

a) encourage the efficient use of energy

b) reduce greenhouse gas emissions associated with stationary energy use in the Territory

c) reduce household and business energy use and costs

d) increase opportunities for priority households to reduce energy use and costs.

(b) The disallowable instruments do not unduly trespasses on rights previously established by law

The instruments do not unduly trespass on rights previously established by law. The instruments determine codes of practice for implementing the Energy Efficiency Improvement Scheme.

(c) The disallowable instruments do not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions

The instruments do not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions. The new codes of practice simply include updates to take account of changes since the last codes of practice were made. Decisions which may be impacted by the codes of practice, such as determining retailer energy savings result, are reviewable, see Schedule 1 of the Act.

(d) Contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly

The matter contained in the codes of practice is appropriate to be dealt with in subordinate legislation and is in accordance with the Act.

Conclusion

This Regulatory Impact Statement complies with the requirements for a disallowable instrument as set out in Part 5.2 of the Legislation Act. An explanatory statement for each of the disallowable instruments has been prepared for tabling.