

Regulatory Impact Statement

Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2017

Disallowable Instrument DI2017 - 251

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



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1. Executive Summary

The *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act) establishes the Energy Efficiency Improvement Scheme (EEIS) which aims to encourage the efficient use of energy, reduce greenhouse gas emissions, reduce household and business energy use and costs, and increase opportunities for priority households to reduce energy use and costs. Priority households are Canberra's lower income households, defined as households in which at least one resident holds an eligible concession card. These households are most affected by energy price rises, but least able to invest in efficient items and thus reduce their energy demand. The Priority Household Target (PHT) ensures that a proportion of EEIS savings are delivered in these priority households.

The PHT target is reviewed and set annually. This Regulatory Impact Statement is prepared in accordance with Part 5.2 of the *Legislation Act 2001* for establishing the PHT for 2018, as a disallowable instrument made under section 8 of the Act.

2. The authorising law

The Act was passed by the Legislative Assembly on 3 May 2012. The Energy Efficiency Improvement Scheme (EEIS) is a retailer obligation energy efficiency scheme and 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 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.

Section 8 of the Act requires tier 1 retailers to achieve a PHT for the total reduction in greenhouse gas emissions achieved in priority households for each compliance period. The PHT is expressed as a percentage of the Retailer Energy Savings Obligation (RESO) and tier 1 retailers are obliged to achieve a proportion of their energy savings obligation in low-income households. Section 8 provides for the determination of the PHT by disallowable instrument. Section 15 establishes the PHT as a proportion of the total Retailer Energy Savings Obligation as follows:

$$\text{Priority Household Obligation} = \text{Retailer Energy Savings Obligation} \times \text{PHT}$$

The Act requires tier 1 retailers to achieve their EST by delivering eligible activities. Eligible activities are activities determined by the Minister and include installing energy efficient

light globes, draught seals, efficient space heating and cooling systems, water heaters and other items that save energy bills and greenhouse gas emissions while maintaining quality of life. Smaller, tier 2 retailers can either deliver eligible activities or pay an Energy Savings Contribution. ActewAGL Retail (ActewAGL) is currently the only tier 1 retailer.

This document outlines the costs and benefits associated with determining the PHT at 20 per cent for 2018 through the disallowable instrument *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2017*.

3. Policy objectives of the disallowable instrument and the reasons for them

The policy objective of the disallowable instrument is to achieve one of the objects of the Act relating to priority households. The objects of the Act are established in section 6. Object (d) is to “increase opportunities for priority households to reduce energy use and cost”. This is consistent with the ACT Government’s strategic objective of helping households, businesses and schools to reduce emissions, energy and costs.

Priority households are intended to be those lower income households who can benefit most from energy efficiency, but are least able to make improvements without additional assistance. Priority households are defined in the Act’s dictionary as a residential premises in which one person who lives at the premises –

- (a) is a recipient of an ACT Government energy concession, or
- (b) holds a Commonwealth pensioner concession card or health care card, or
- (c) holds a Department of Veterans Affairs pensioner concession card, TPI gold repatriation health care card, war widows repatriation health care card or gold repatriation health care card, or
- (d) is within a class of people prescribed by regulation.

The policy objective of providing benefits for low income households remains a key government priority. The PHT delivers on:

- ACT government priorities;
 - Helping reduce peak electricity and gas demand,
 - Improving social housing and affordability,
 - Achieve net zero greenhouse gas emissions by 2050 at the latest,
 - Helping households to reduce emissions, energy and costs,
 - Healthy and smart, and
 - Climate change adaptation.
- Current 9th Labor-Greens Parliamentary Agreement;
 - 4.8, grow and diversify the not for profit community housing sector, through a combination of capital investment, land transfer and other means, and
 - 6.7 Implementing measures to improve energy efficiency of rental properties.

The PHT was determined at 25 per cent each year from 2013 to 2015. This level was above the estimated 20 per cent of households receiving energy concessions and/or holding a concession card in the ACT.

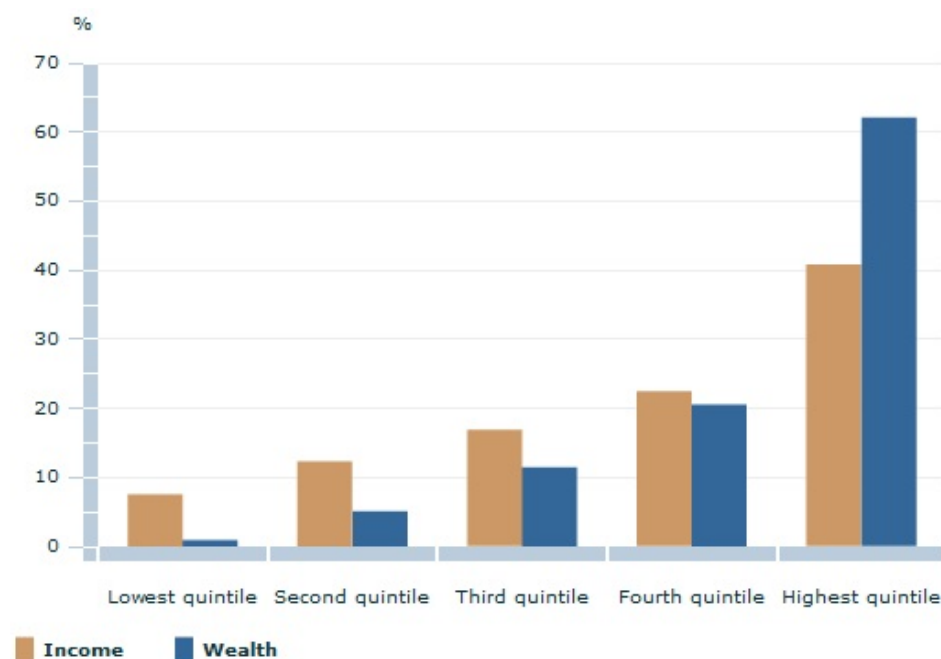
The EEIS Extension Regulatory Impact Statement¹ (the EEIS Extension RIS) recommended the PHT be decreased in 2016 to 20 per cent. This was based on modelling results and consultation reported in the EEIS Review and aimed to balance the costs that are passed through to consumers while ensuring that priority households in the ACT continue to benefit from the EEIS (EEIS extension RIS p.20). For the purposes of modelling, all household costs and savings assume a 20 per cent PHT for the period 2016 to 2020. However, the target will continue to be subject to annual review, which is why it is only being set until the end of 2018 at this stage. Consultation undertaken to set the 2017 PHT confirmed 20 per cent as the optimal target for that year and so the same level was continued.

Data available from the Australian Bureau of Statistics (ABS) confirm the ongoing relevance of the policy objective. The most recent data support the ongoing importance of the PHT policy objective. Figure 1 is from a 2015 ABS article on Income and Wealth Distribution² and shows that households with the lowest 20 per cent of wealth own less than one per cent of all Australian household wealth. The graph also shows the strong correlations between households with low income and those with low wealth, and the relative disadvantage of Australia's poorest 20 per cent.

¹ ACT Government Environment and Planning Directorate (2015) *Energy Efficiency Improvement Scheme: Setting Key Parameters to 2020. Regulatory Impact Statement*. Available at http://www.environment.act.gov.au/_data/assets/pdf_file/0006/735990/Attachment-C-Regulatory-Impact-Statement-EEIS-Parameters-to-2020-FINAL.pdf.

² Australian Bureau of Statistics (2015) *Income and Wealth Distribution*. Available at <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/6523.0~2013-14-Main%20Features~Income%20and%20Wealth%20Distribution~6>

Figure 1 Share of net worth and equivalised income, Australia, 2013-14



The relative poverty of Australia’s poorest people has deteriorated over the life of the EEIS. This is measured by the Gini coefficient whose range is between zero and one, with zero meaning perfect equality and one complete inequality. Gini coefficients for both income and wealth increased between 2011-12 and 2013-14.

Table 1 Gini coefficients for inequality of income and wealth

	Income	Wealth
2011-2012	0.320	0.605
2013-2014	0.333	0.666

Source: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/6523.0~2013-14~Main%20Features~Income%20and%20Wealth%20Distribution~6>

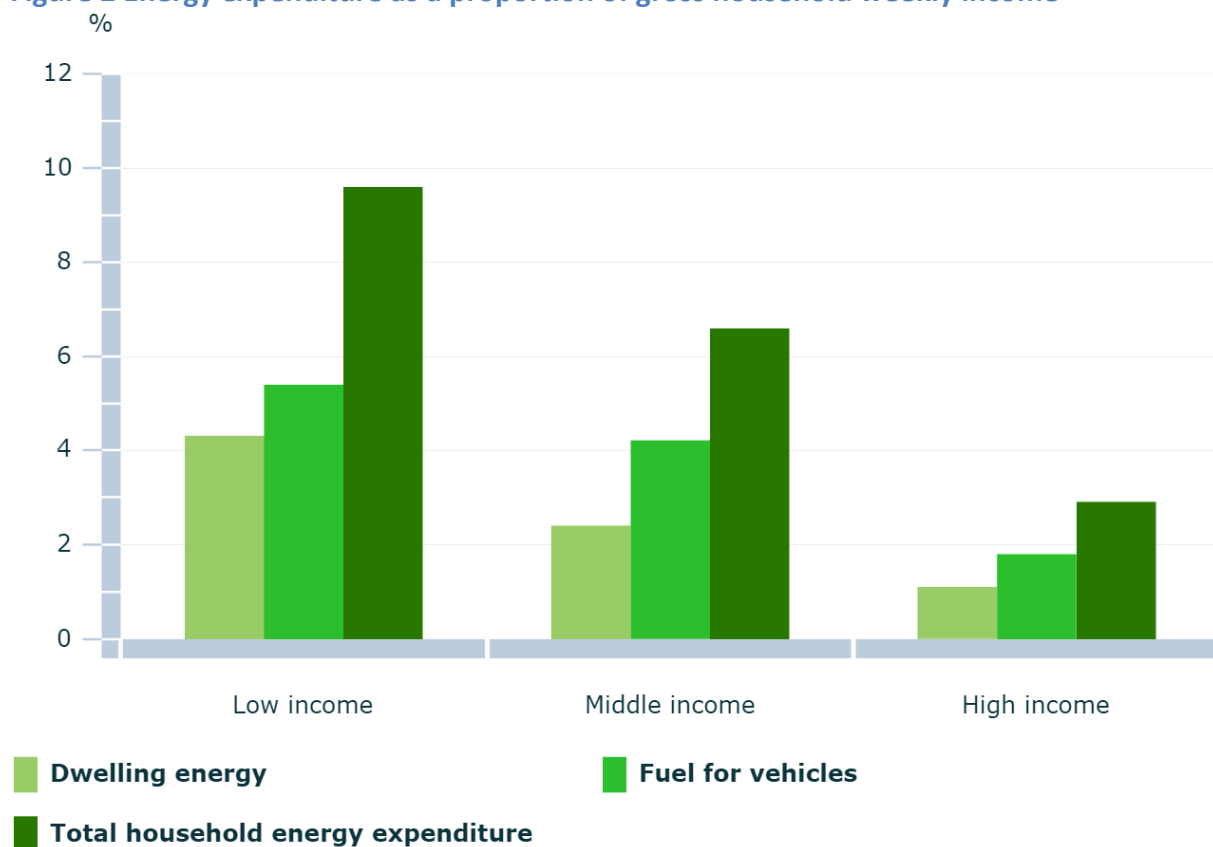
Many of the ACT priority households are reliant on base-rate government benefits such as pensions as their only source of income. There has arguably been a small easing of cost of living pressures on these people in recent years due to low inflation, and modest increases in the consumer price index. However some housing costs and health costs have also increased over recent years, exerting additional pressure on households relying entirely on income support. These rising costs are compounded by rising energy prices³.

³ Australian Council of Social Services (ACOSS) (2015) *Review of ACT Concessions Scheme*. Available at <https://www.actcoss.org.au/sites/default/files/public/publications/2015-submission-review-of-act-concessions-scheme.pdf>

3.1 Impacts of rising energy prices on low income households

The price of energy supply also affects the achievement of the policy objective since rising energy prices affect low income households the most. This is because the cost of electricity represents a much larger proportion of low income household's income than for the general population and energy costs have more impact on the economic wellbeing of lower economic resource groups. Low income households spend on average almost 10% of their gross household weekly income on total household energy costs, around three times that of high income households. Figure 2 shows how energy costs as a proportion of gross weekly household income are higher for low wealth households (6.3%) than for higher wealth households⁴.

Figure 2 Energy expenditure as a proportion of gross household weekly income



Even though ACT consumers enjoy some of the lowest electricity prices in Australia, energy prices in Australia have risen sharply over the last decade. In response, many households have reduced energy costs by investing in measures to reduce energy consumption, such as purchase of energy efficient appliances, installing rooftop solar panels and home upgrades. Priority households have not had access to the funds required to undertake these measures.

⁴ Australian Bureau of Statistics (ABS) 4670.0 - Household Energy Consumption Survey, Australia: Summary of Results (2012) Available at <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4670.0main+features100032012>

Instead, these households have taken other measures such as rationing energy use, seeking emergency assistance to pay for energy costs, or not paying accounts⁵.

In October 2013 a University of Sydney study⁶ on the *Impacts and consequences of rising energy prices*, found that low income households have more barriers preventing them from reducing energy use than those with relatively higher income levels. Predominant barriers to reducing energy consumption are being unable to afford energy saving appliances or household repairs/improvements (which is most problematic for renters), the need for health-related use of heating and cooling and life support equipment, and the presence of children. Households are reluctant to cut heating or cooling too much in case it affects the health of children or exacerbates existing health vulnerabilities. The study showed low income households reduced their energy costs through behaviour change. These shifts in behaviour were driven primarily by higher electricity prices, but these minor changes to household energy behaviours will not result in sufficiently significant changes to energy bills (Chester 2013).

Electricity and gas prices are predicted to continue to rise in the coming years, putting further pressure on low income households. The Independent Competition and Regulatory Commission (ICRC) released an electricity pricing decision on 7 June 2017, providing for an 18.95% increase in regulated retail electricity tariffs from 1 July 2017. This decision is primarily driven by rising wholesale prices in the national electricity market⁷. According to the ICRC, this will mean that an annual electricity bill for a household consuming an estimated 8,000 kWh in the ACT will increase by approximately \$333.

Meanwhile, Figure 3 shows that gas prices in the ACT are predicted to rise at even faster rates than electricity from 2017 until 2023 as a result of changes to global oil prices, exchange rates and ongoing effects of the linking of the Eastern Australian gas market with international gas markets and prices⁸.

Many low-income households have difficulty paying their energy bills, and there is strong evidence of the inability of low-income households to become more energy efficient without assistance. Should electricity and gas prices increase as predicted, we can expect

⁵ Australian Council of Social Service (ACOSS) (2013). *Energy Efficiency & People on Low Incomes: policy to improve affordability and extreme weather adaptation*, ACOSS, Strawberry Hills, NSW, Australia, August 2013. Available at www.acoss.org.au/images/uploads/ACOSS_ENERGY_EFFICIENCY_PAPER_FINAL.pdf

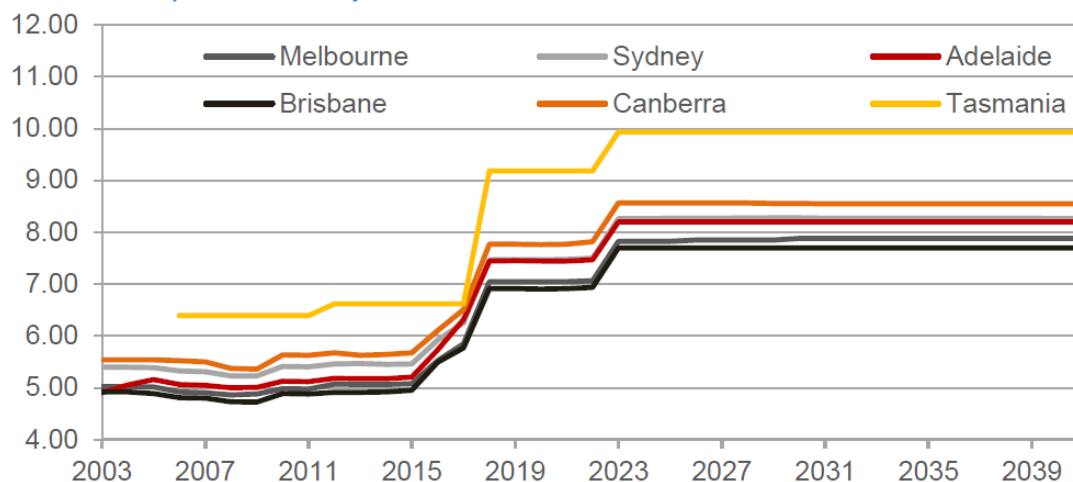
⁶ Chester, Lynne (2013), *The impacts and consequences for low-income Australian households of rising energy prices*, University of Sydney, Department of Political Economy, Faculty of Arts and Social Sciences, Australia, October 2013. Available at http://www.householdenergyuse.com/resources/Impacts_Consequences_Low_Income_Households_Rising_Energy-Bills_Oct2013.pdf

⁷ Australian Energy Market Commission (2016) *Residential electricity price trends report*. Available at <http://www.aemc.gov.au/getattachment/09da7d51-68bf-494c-b657-bd0f5925e9be/Australian-Capital-Territory-fact-pack-and-media-r.aspx>

⁸ Core Energy Group (2016) National Gas Forecasting Report. Available at http://www.aemo.com.au/-/media/Files/Gas/National_Planning_and_Forecasting/NGFR/2016/NGFR-Gas-Price-Review-Final-Report-October-2016.pdf

greater demand for emergency relief, community services, affordable housing and schemes like the EEIS.

Figure 3 Modelled average delivered mass market prices at major demand centres, Neutral case, 2016 in AUD/GJ



4. Achieving the policy objectives

There is good evidence that EEIS activities deliver significant savings to participating households, which to date has included a proportion of priority households. This was the conclusion of the 2014 Review of the EEIS which confirmed average savings of \$318 per year, or \$1,614 total savings per household at the time of that study.

The PHT has been consistently achieved since the life of the scheme. Table 2 shows how ActewAGL has tracked on the PHT over the life of the scheme. Column one shows the PHT setting for each year of the scheme which was 25% from 2013-2015 and 20% thereafter. Column 2 shows the proportion of total abatement that ActewAGL delivered in priority households each year. This was well above the PHT in the first two years, and has dropped off steeply since then with previous year surpluses being carried over into subsequent years. Column 3 shows that as a result of the carry-over surplus from the first two years, the proportion of the total abatement that ActewAGL needed to deliver in priority households was less than the statutory target in each subsequent year.

Column 4 shows the total number of priority households in which abatement was delivered each year. This peaked in 2014 and has reduced since then. A total of 19,381⁹ priority households received EEIS activities from 2013 to 2016. Commentary in advance of the ACT Budget 2016-17 states that “concessions play an important role in supporting around 30,000

⁹ This figure is the total unique priority households benefiting from the scheme. It is lower than the sum of Column 4 in Table 1, because some priority households received more than one visit.

Canberra households, and the need for support is increasing”¹⁰. ABS estimates that there are approximately 156,000 households in ACT in 2017, meaning that over 19 per cent of all Canberra houses fit the definition of EEIS priority households. This suggests that about two-thirds of ACT priority households have received EEIS benefits to date.

Table 2 Achievement of the Priority Household Target

Year	1. PHT as a proportion of the RESO	2. Priority household abatement compared with RESO	3. % of total abatement required in priority houses to meet PHT, after carry-over surplus	4. Number of priority households visited
2013	25%	31%	25%	5,128
2014	25%	32%	17%	8,288
2015	25%	16%	8%	4,574
2016	20%	8%	7%	1,761
2017	20%	Not available	13%	Not available

EEIS opportunities have shifted over the life of the scheme, and these changes are reflected in the types of activities that have been delivered by ActewAGL. To date, most of the priority household abatement was delivered through a small set of activities including standby power controller, compact fluorescent light globe, draught sealing and refrigerator removal activities. These activities are widely considered the ‘low hanging fruit’ of energy efficiency schemes and have been delivered free of charge in the ACT, consistent with other schemes. The abatement values for the first two activities were revised down between 2014 and 2016 in line with other schemes. ActewAGL responded in January 2017 by ending its free “Energy Saving House Calls” program which was delivering those activities.

Since the 2014 review, new activities providing even higher savings have been introduced by EEIS and some are being delivered by the tier 1 retailer.

Marginal cost of abatement analysis conducted for EEIS and presented in Figure 4 suggests that the most cost-effective activities under the EEIS now include larger activities such as space heating and cooling activities. Despite high abatement, these are too expensive to be delivered at no cost to households and so co-payment arrangements are needed. ActewAGL is already delivering ducted gas heating activities with co-payments. Higher rebates are being offered to priority households and ActewAGL has indicated some uptake already from this group. Continuation and expansion of ActewAGL’s space heating and cooling activities seems like a viable option for continuing to meet the PHT, even though initial take-up does not guarantee long-term viability of a program.

¹⁰ ACT Government (2016). *ACT Budget 2016-17*. <http://apps.treasury.act.gov.au/budget/budget-2016-2017/factsheets/concessions>

Figure 4 Marginal cost of abatement curve for EEIS activities

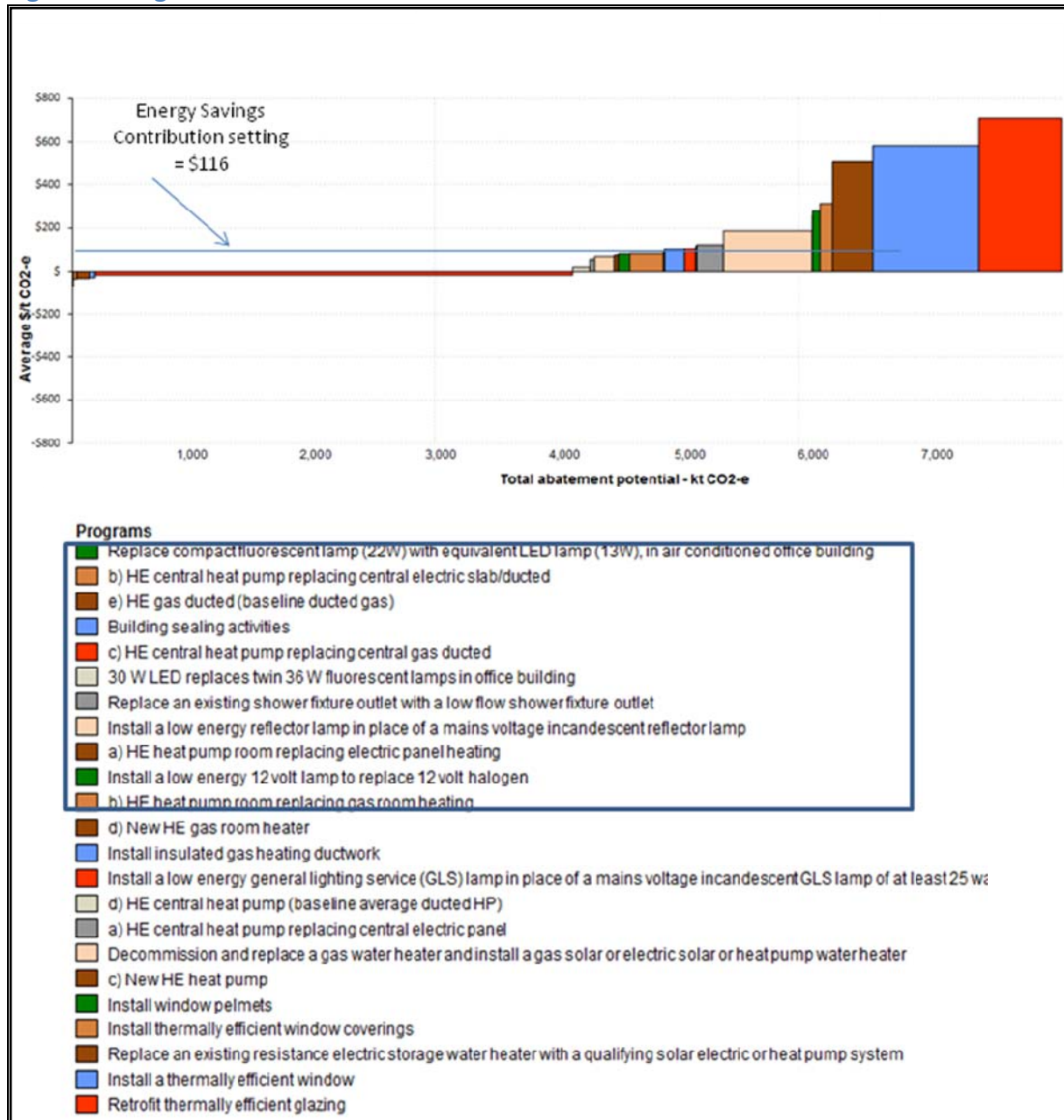


Table 3 confirms that significant bill savings can be achieved by heating upgrades in Canberra households. It compares the annual energy costs of a range of space heaters that are typically found in ACT households with some units that meet the EEIS criteria. Costs to run ducted gas heaters are lower when ducting is in good condition. Estimated savings for gas heater and ducting upgrades currently being delivered through EEIS are estimated at between \$16,000 and \$26,000 per household over the life of the products. These systems are being delivered with an EEIS-funded rebate totalling \$3,000 for non-priority households, and \$4,000 for priority households. ActewAGL has reported that priority households are taking up the offer, thus demonstrating that a co-payment model is feasible for meeting the PHT.

Table 3 Comparing running costs of space heaters

Heater	Stars	Rated capacity (kW)	Burner efficiency	Annual Heating load required (kWh)	Energy input to meet load (MJ for gas, kWh for a/c)	Energy cost to meet load*
1 Gas flued wall heater	2.1	5.5	67%	7200	38769	\$1,097
2 Gas flued wall heater – EEIS activity	4.4	5.5	84%	7200	30857	\$875
3 Window/wall fixed speed system	1.5	5.5	na	7200	3291	\$602
4 Window/wall variable speed system	1.5	5.5	na	7200	3088	\$565
5 Electric resistance	na	5.5	na	7200	7200	\$1,318
6 Non-ducted split	2.5	5.5	na	7200	2052	\$376
7 Non-ducted split – EEIS activity	5	5.5	na	7200	1566	\$287
8 Ducted variable speed heatpump	2.5	16	na	20893	6264	\$1,147
9 Ducted gas heater	4.3	16	75%	20893	100286	\$2,915
10 Ducted gas heater – EEIS activity	6	16	87%	20893	86454	\$2,528

Sources: Calculations completed using Seasonal Energy Efficiency Ratio (SEER) standard with input from data tables, product specifications and results, Appendix 1.

* Assumes 18.304c per kWh for electricity and 2.8c per MJ for gas. The cost of running a gas heater includes some electricity for the fan unit. This is conservatively estimated at \$107 per year for ducted systems and \$11 for wall units, and has been included in the total. Costs associated with using the units for cooling are not included.

There is good evidence that programs to support low income installations of major equipment such as space and water heaters are successful in delivering savings, but still have a long way to go before all potential savings are realised. For instance, the 2016 *Final Report of the LIEEP Power Savers Program*¹¹ found that the Commonwealth Low Income Energy Efficiency Program successfully trialled a number of different approaches in various locations to assist low income households to become more energy efficient. The program successfully rolled out tailored energy solutions including solar hot water systems and other

¹¹ Nature Conservation Council of NSW (2016). *Final report of the Low Income Energy Efficiency Program*. Available at <https://www.environment.gov.au/system/files/pages/f29739bb-08bf-4946-af6f-d60dad9448e3/files/ncc-final-report-appendices.pdf>

retrofits. The program evaluation found that a range of barriers still exist to achieving energy upgrades in low income households and recommended the continuation of programs to support low income households. A key example is the rental household split incentives problem whereby tenants are responsible for paying energy bills, while landlords provide energy-using equipment such as heaters. In these cases, there are no direct financial incentives for landlords to invest in energy efficient household equipment.

The ACT government is maintaining complementary programs to assist low income households with energy efficient upgrades. These include the Actsmart Household Energy Efficiency Program¹², No Interest Loan Scheme¹³, and the proposed solar installation scheme for low income households¹⁴. The Actsmart Energy programs are funded by, and operate complementary to, the Energy Efficiency Improvement Scheme (EEIS) to maximise opportunities for businesses and households to reduce emissions and energy costs by offering energy efficient opportunities beyond those being delivered through EEIS.

Together, these examples show that the PHT policy objectives are being consistently met and that new opportunities exist for continuing to deliver these objectives through the PHT.

5. Consultation

A communications plan was developed to guide consultation on the proposed 2018 PHT settings. Consultation was carried out over a six week period from late March until early May 2017. Consistent with the plan, the following stakeholders received the draft RIS, and were invited to provide feedback:

Government internal;

- EPSDD Low Income Working Group,
- EPSDD Legislation Services,
- Sy&CC and EPSDD Communications teams,
- Community Services Directorate (Housing ACT), and
- Office of the Commissioner for Sustainability and the Environment.

Australian government;

- E3 – Equipment Energy Efficiency program.

Tier 1 Retailer;

- ActewAGL.

Non-government organisations;

- Energy Efficiency Council,

¹² Actsmart (2016) *Low income households*. Available at <http://www.actsmart.act.gov.au/what-can-i-do/homes/Actsmart-household-energy-efficiency-program>. Accessed February 2017.

¹³ Good Shepherd Microfinance (2016) *The No Interest Loan Scheme*. Available at http://nils.com.au/?gclid=CjwKEAiArbrFBRDL4Oiz97GP2nlSJAAmJMFa3MbPIsjmV8YkiDFL6o7vxMq8COyJwvjSW9vRgMyCDBoCxlvw_wcB Accessed February 2017.

¹⁴ ACT Government (2016) *Quick Links*. Available at http://www.environment.act.gov.au/home/latest_news?a=905828. Accessed February 2017.

- Energy Efficiency Certificate Creators Association,
- Aged Care Assessment Team,
- Energy Consumers Policy Consortium, incorporating,
 - ACT Council of Social Services (ACTCOSS),
 - Care Financial Counselling Services,
 - Conservation Council ACT Region,
 - SEE-Change, and
 - Small Business Taskforce of the Canberra Business Chamber,
- St Vincent de Paul, and
- Community Partnership groups,

Research groups;

- ANU Environmental Policy student projects on delivering energy efficiency to low income households.

Stakeholders were asked to provide feedback on the following points in particular:

- What is the best setting for the EEIS Priority Household Target in 2018?
 - 20 %, the same as for 2016 and 2017,
 - Change to a higher level, or
 - Change to a lower level.
- If you think it should change, what level do you suggest?
 - Why do you think it should be set at this level?

Seven written submissions were received representing 11 organisations, since the submission from the Energy Consumers Policy Consortium represented the views of five community groups. Government agency responses included a formal submission from the Office of the Commissioner for Sustainability and the Environment and an informal comment from E3. The Tier One retailer, ActewAGL provided a detailed submission. Two student projects were received. Non-government respondents to the stakeholder consultation included:

- Energy Consumers Policy Consortium, and
- Salvation Army.

Additional consultation included meetings held with the Energy Consumers Policy Consortium, Housing ACT and ActewAGL.

The following sections outline the range of views on the PHT that were received in submissions, and presents a government response to the points raised. Stakeholder views are summarised in bar graphs whose totals represent the sum of submissions that identified a particular issue. This is a very simple semi-quantitative measure, which suggests the degree of agreement across stakeholders on a range of unprompted matters. It doesn't indicate the degree of significance that any particular stakeholder places on any particular

issue. It also treats all stakeholders as equal despite five different groups in the Energy Consumers Policy Consortium being represented by just one ‘vote’, and ActewAGL being the only contributor with a significant financial stake in the results. The nature of specific concerns is addressed in the text.

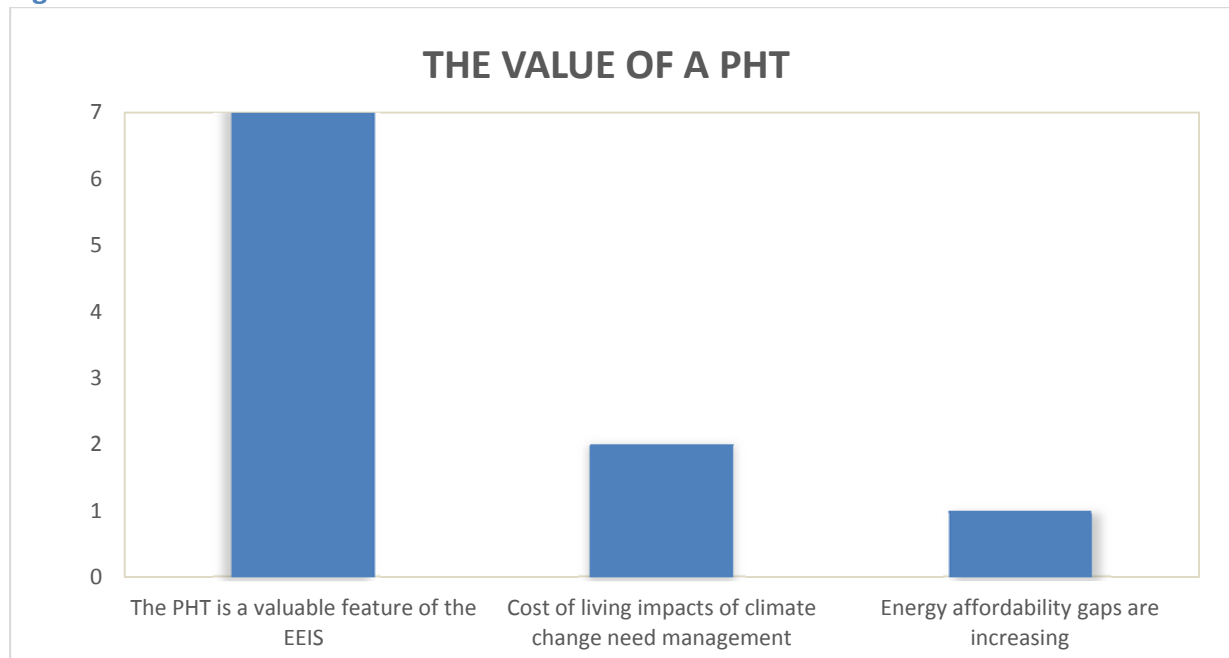
5.1 The value of a PHT

All of the submissions commented favourably on the value of having a statutory target to ensure that savings are directed to low income households. These results support the continuation of a priority household target.

Figure 5 summarises comments made about the value of the PHT as a policy instrument. It shows that all of the submissions noted that the PHT is a valuable feature of EEIS. Two stakeholders noted that cost of living impacts need management with climate change, and one noted that energy affordability problems are increasing. Some comments made on these subjects were:

- This initiative is critical in ensuring the cost of living impacts of climate change are managed, particularly for the low income demographic in the ACT, and
- A PHT is especially needed at a time of falling solar system and solar battery prices when it is necessary to ensure that the social equity divide is bridged, otherwise this gap will only grow larger.

Figure 5 The Value of a PHT



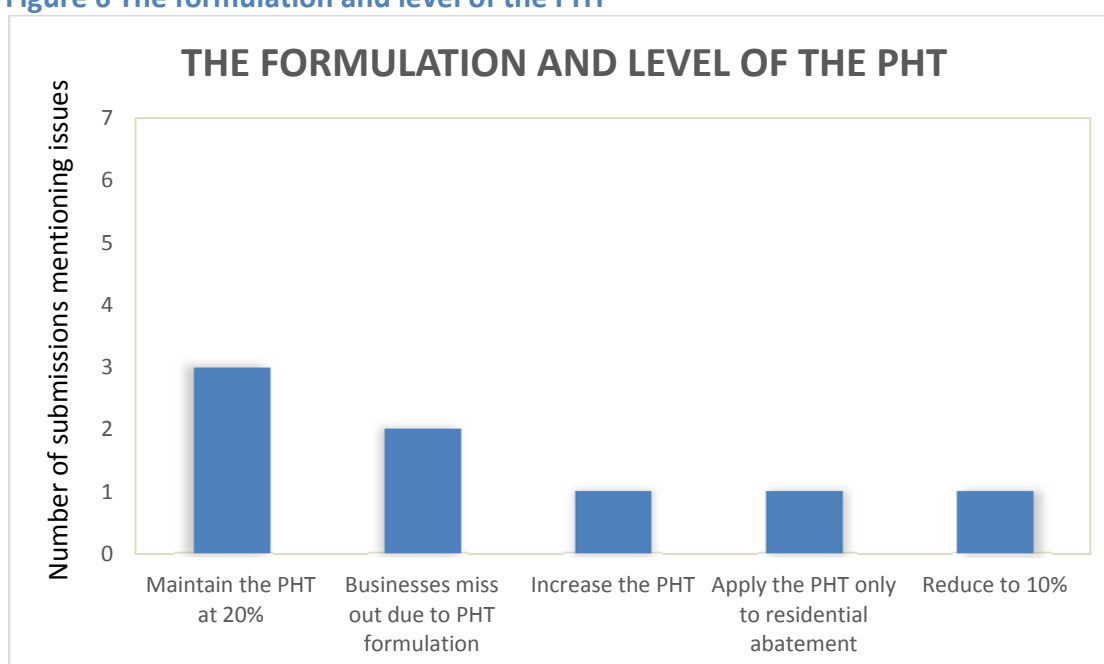
These consultation results strongly support the continuation of an EEIS Priority Household Target.

5.2 The formulation and level of the PHT

One of the key questions posed in PHT consultation was on the best setting for the PHT in 2018. Figure 6 presents responses to this question. Three of the submissions argued that the PHT should remain at 20%, the same as in 2016 and 2017. One submission proposed a higher level and one proposed a lower level. Some comments that support a 20% or higher PHT setting were as follows:

- We understand and agree with the logic in the consultation draft RIS and would therefore like to see the 20% target remain in force, at this time, and
- With so many in need, it would be unacceptable to reduce the PHT.

Figure 6 The formulation and level of the PHT



ActewAGL was the only stakeholder proposing a lower PHT. This was in part due to issues with its formulation in section 15 of the Act. As noted above, section 15 of the Act establishes the PHT as a proportion of the total Retailer Energy Savings Obligation as follows:

$$\text{Priority Household Obligation} = \text{Retailer Energy Savings Obligation} \times \text{PHT}$$

ActewAGL note that this formulation means that any business activity that they deliver makes it more difficult to deliver the PHT. This is because business energy use makes up about half of all ACT electricity demand. So if priority households make up about 20% of all households, their electricity demand is about 10% of total ACT electricity.

From 2017, ActewAGL has been delivering about half of its abatement in business. This expansion to the business sector has strong policy support since a key goal of the EEIS extension was to extend EEIS benefits to business. With the current PHT formulation, if ActewAGL continues to deliver half of its abatement in business, the 20% PHT means that ActewAGL must deliver about 40% of residential sector savings in priority households.

By extension, all other things being equal, the introduction of business abatement creates genuine challenges for ActewAGL to continue achieving this level. If ActewAGL is to continue delivering about half of its RESO to businesses, and if the PHT aims to ensure that low income households receive a proportion of EEIS savings that matches their representation in the population, then a 10% PHT for 2018 will deliver that result. Conversely, retaining a 20% PHT in 2018 creates a disincentive for ActewAGL to deliver abatement to businesses which is arguably unfair to the ACT business sector.

It must be recognised that a reduction in the percentage level of the PHT would require fewer absolute savings to be delivered in priority households. Hence this issue is in part about trading off savings in businesses, with savings in priority households. While business savings are a key EEIS policy goal, the current energy price rises make it undesirable to reduce support to low income households at this time.

The results of this consultation suggest two follow up actions:

- A review of the PHT formulation in the Act, to consider whether the PHT should be a proportion of the total abatement, or a proportion of residential abatement, and
- Unless there is a significant expansion in the pool of households available for PHT delivery, consider a reduction in the current 20% level of the PHT.

It is worth noting that the South Australian Retailer Energy Savings Scheme (REES) has an equivalent formulation to EEIS for its Priority Group, meaning that any abatement delivered in businesses increases and the proportion of residential abatement that must be delivered to low income households. The REES Priority Group target has been increased from 19 % in 2017 to 21.7 per cent for 2018-20¹⁵. This is despite more than half of the REES abatement being delivered in commercial premises, including 68.9 % in 2016¹⁶.

5.3 The scope of the PHT

Expanding the pool of priority households available was recommended by nearly all stakeholders. This could be achieved by expanding the scope of the PHT, so that a higher proportion of ACT's low income households are eligible.

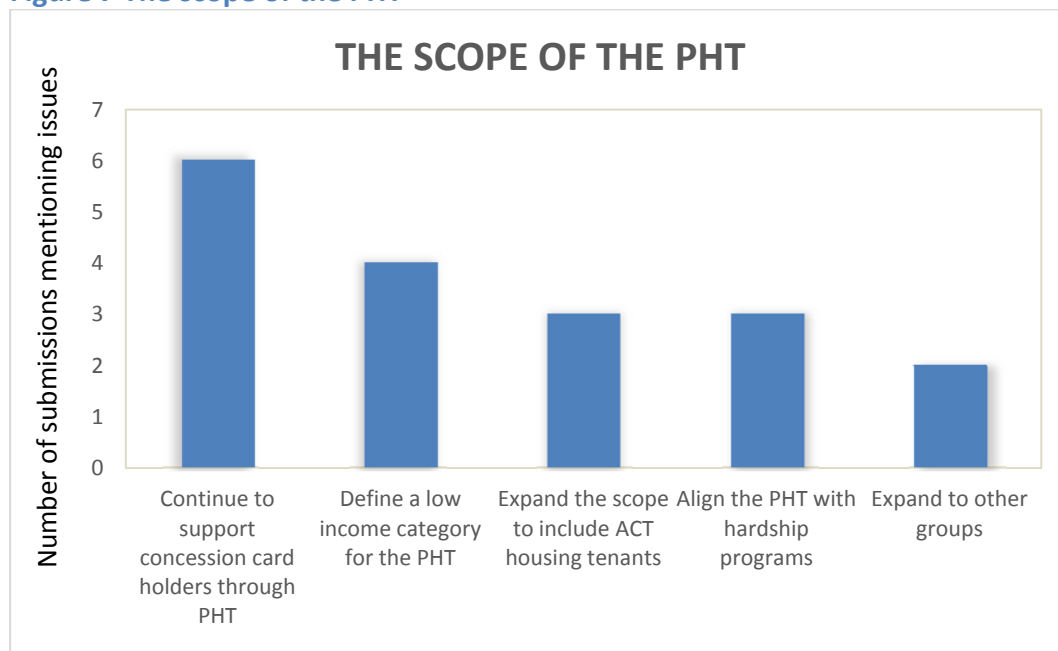
¹⁵ The South Australian Gazette, Tuesday 11 July (2017) Available at http://www.governmentgazette.sa.gov.au/sites/default/files/public/documents/gazette/2017/July/2017_044.pdf. P. 2839

¹⁶ Essential Services Commission (2017) *Retailer Energy Efficiency Scheme Annual Report 2016*. Available at <http://www.escosa.sa.gov.au/ArticleDocuments/214/20170630-REES-RetailerEnergyEfficiencyScheme2016Annual%20Report.pdf.aspx?Embed=Y>

Figure 7 shows a range of options that were proposed by stakeholders to increase the scope of the PHT. As well as retaining the existing priority household definition, stakeholders have suggested adding a low income category, expanding the scope to include all ACT housing tenants, aligning with hardship programs and expanding to a range of other groups. Some comments received on increasing the scope of the PHT include:

- There are around 30,000 households in the ACT that have concessions. This figure under-represents those in need as not all of Canberra’s vulnerable have concession cards,
- Extending the PHT to public housing is a great opportunity to deliver much needed energy cost savings to low income households that have not received the benefits of the EEIS due to living in public housing,
- Consideration needs to be given to whether any partnering with Housing ACT delivers benefits over and above what Housing ACT would have delivered – and results in some cost shifting by the ACT Government to ActewAGL, and
- The alignment of EEIS and hardship programs is recommended in order to better anticipate the problem as early as possible. This alignment should be undertaken in a transparent manner with the retailer, in recognition of the commercial benefits of providing enduring energy solutions to hardship customers who may never be in a position to pay off their debt.

Figure 7 The scope of the PHT



Expanding the scope of the PHT is a practical option. The definition of "priority household" is in the Dictionary to the Act, and provides, amongst other things, that priority household means residential premises in which one person who lives at the premises is within a class of people prescribed by regulation. Accordingly, a regulation could be made to expand the

scope of priority households. Targeted consultation has been undertaken to confirm the following matters:

- which of the proposed options are reasonable and practical,
- the ideal mix of additional priority household categories, and
- the likely increase in priority households that would result from a change.

If the scope of the PHT is broadened it will increase the number of eligible households and partly mitigate arguments for reducing the level of the PHT. Table 4 outlines a set of proposed new classes of priority households that was developed through targeted stakeholder consultation. The table summarises the proposed new categories, intended coverage, verification and evidence requirements and the likely increase in the number of priority households. Analysis suggests that the proposed expansion could expand the number of priority households in the ACT by up to 32% compared with the current classes. The actual expansion is likely to be a bit less than this since most classes have some overlap, including with existing classes of priority households.

Table 4 Proposed PHT scope expansion

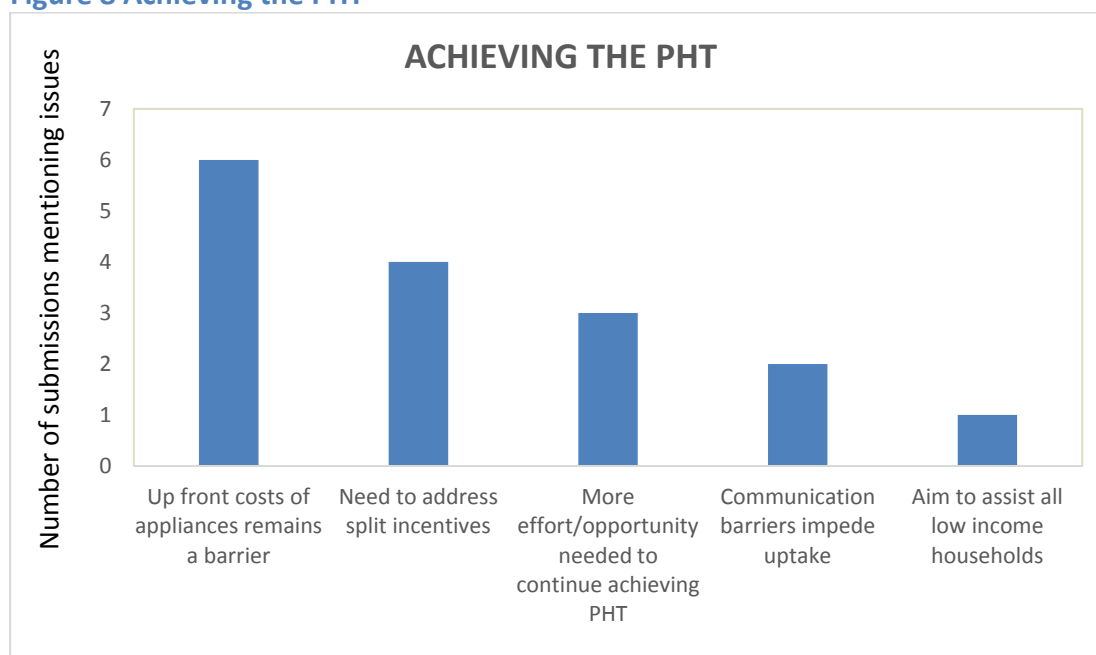
Proposed new priority household classes	Intended coverage	Verification or evidence	Likely increase in priority households
<p>Three additional commonwealth concessions:</p> <p>i. Commonwealth Seniors Health Card,</p> <p>ii. Low Income Health Care Card,</p> <p>iii. Disability Support Pension Card</p>	<p>v. <i>Commonwealth Seniors Health Cards:</i> This is claimed by people who have reached the qualifying age for the Age Pension but do not qualify for a pension. Qualification requires adjusted taxable income test. The Commonwealth Seniors Health Card provides access to health concessions, including cheaper pharmaceutical medicines.</p> <p>v. <i>Low Income Health Care Card:</i> This can be claimed by low income earners, providing them access to health concessions, including cheaper pharmaceutical medicines.</p> <p>vi. <i>Disability Support Pension:</i> This is an income support payment for people who are unable to work for 15 hours or more per week at or above the relevant minimum wage, independent of a Program of Support due to permanent physical, intellectual or psychiatric impairment. Claimants must be aged 16 years or over and under Age Pension age at date of claim.</p>	<p>Concession card with number to be recorded by installer.</p>	<p>Moderate expansion. This adds approximately 32 per cent to the number of eligible concession card holders.</p>
<p>Households accessing an approved financial hardship scheme of an energy retailer</p>	<p>Each retailer offers these programs to support people facing difficulty paying bills. Household eligibility is based on an outstanding debt, active customer status, presence of financial hardship factors, obligation acknowledgement and willingness to pay. They are self-identified or proactively identified by retailers and remain in a hardship scheme until the debt is paid or the customer defaults. The programs involve a formal agreement for a specified time period that support people to catch up on energy bill payment. Households are to be considered priority households for the term of their hardship program agreement.</p>	<p>Written evidence from an energy retailer, including notifications on energy bills.</p>	<p>Minor expansion. ActewAGL estimates that approximately one-third, electricity customers accessing financial hardship programs do not hold concession cards. About half of the gas customers accessing financial hardship programs are not registered as holding concessions, although concession cards are under-reported for gas since there is no rebate. Combining both groups suggests that this proposed class would add about 400 new households to the priority group.</p>
<p>Households experiencing financial hardship and referred by a specified community organisation or the Australian Capital Territory Civil and Administrative Tribunal (ACAT)</p>	<p>Households experiencing financial hardship can be identified by Care Financial Counselling Service Incorporated (Care), St Vincent de Paul, Salvation Army or Australian Capital Territory Civil and Administrative Tribunal (ACAT) Energy and Water. These organisations can provide referrals for financial hardship directly to energy retailers following a needs assessment.</p>	<p>Referral would be by email to an electricity retailer, using an agreed form of words. The referral is not proposed to be time-bound, and would apply to the person, not the address.</p>	<p>Minor expansion. Many households in this category would benefit from lower energy bills but may not be in a position to enter into co-contribution arrangements for energy efficient equipment. However the category is worth including because of special circumstances that may apply to some households in this category, such as health needs requiring comfortable conditions, and the possibility of future activities not requiring co-payment.</p>
<p>Priority dwellings including:</p> <p>i. Public housing properties managed by Housing ACT,</p> <p>ii. Not-for-profit community housing facilities,</p> <p>iii. Not-for-profit aged care housing facilities, and</p> <p>iv. Not-for-profit disability housing facilities.</p>	<p>Four new categories of priority dwellings are proposed, each owned and managed by a specified type of government or not-for-profit organisation. These are to be defined by ownership, not tenancy to facilitate equipment upgrades in between tenancies as this is the most logical, and least disruptive time to upgrade. In each case, the incoming tenants will certainly meet low income criteria, as the managing groups only accept new tenants within specified high-needs groups. The priority household class would apply whether or not the property is tenanted.</p>	<p>Tenancy agreement, or written confirmation from the property owner including via a list of eligible properties.</p>	<p>Minor expansion. The Community Services Directorate (CSD) estimates that 95 per cent of Housing ACT households are tenanted by holders of concession cards that already classify them as priority households. In many cases, residents will already qualify. But these new categories are worth including since they will simplify administration involved in large public housing upgrades, and will support not-for-profit facility providers investing in high value energy efficient equipment and thus address the ‘split incentive’ problem.</p>

5.4 Achieving the PHT

Most respondents provided feedback on options available for achieving the PHT. These comments reinforced the ongoing challenges in continuing to deliver savings in low income households. Some barriers identified through consultation included the upfront costs of appliances, split incentives and communication barriers. Stakeholders noted that because of these barriers, achieving the PHT requires ongoing concerted effort from the Tier 1 retailer. One respondent suggested that a good goal would be to provide some assistance to all low income households. Some of the comments about achieving the PHT were:

- It appears that achievement of the PHT in recent years has only been because of flow through of surpluses from previous years. ActewAGL will need to increase its efforts to ensure it meets targets,
- Consideration should be given to how renters, particularly in the private market, can be offered options to reduce their energy consumption. Otherwise, flow on costs of the program result in increased costs, but no benefits, to them, and
- So far the PHT has been successful in delivering energy saving activities to two thirds of priority households, as measured against the utility concession scheme. This is a good outcome but it would be excellent if 100% of identified priority households received these services.

Figure 8 Achieving the PHT



Some submissions suggested that the length of time over which the PHT has operated is another challenge because priority households open to taking up EEIS activities will have already acted. This argument appears not to take account of the shifts in the types of activities delivered over the life of the EEIS and the fact that individual households can participate more than once. It suggests for instance, that low income households either

need efficient light globes, or efficient heaters but not both. It seems more likely that low income households already making savings due to efficient light globes and draught seals provided earlier may be more likely to take up the current ActewAGL offers of rebates on efficient heaters than they would have been if they had not already participated.

It is worth noting that the difficulties involved in extending energy savings to low income households are exactly the market failure that the PHT seeks to address. These enduring challenges can be seen as an indication of the ongoing relevance of requiring that a proportion of EEIS savings are targeted to priority households.

ActewAGL's submission highlighted constraints to their capacity to deliver a 20% PHT in 2018 and called for an immediate revision of the PHT down to 10%. Key issues constraining ActewAGL's delivery of a 20% PHT in 2018 include:

- Some activities such as commercial lighting not being available to priority households,
- Some activities such as ducted gas heating requiring an up-front payment, and
- Some customers, including those in rental households, cannot easily access energy efficient products due to split incentives and other market barriers.

ActewAGL noted that these issues are not insurmountable but emphasises the benefits of extending EEIS activities to the ACT business sector, and the resulting difficulties in achieving a 20% PHT (discussed above in Section 5.2).

As a result of this consultation, the government is considering four options to enhance ActewAGL's capacity to achieve the PHT. These are:

- Committing to a review of the EEIS and the Act, in late 2017, which will consider the formulation of the PHT,
- Expanding the scope of the PHT so that more households are eligible,
- Liaising with Housing ACT to support the delivery of EEIS activities to ACT Housing tenants, and
- Lowering the PHT to support EEIS delivery to the business sector, and if these actions are not successful.

One submission provided a caution about the third option of supporting EEIS activity delivery to ACT Housing tenants. That submission stated that any such option would need to address the stakeholder concern of "whether any partnering with Housing ACT delivers benefits over and above what Housing ACT would have delivered – and results in some cost shifting by the ACT Government to ActewAGL". ActewAGL stated during consultation that it would continue to deliver part of its PHT outside of ACT Housing properties regardless of any arrangements to support EEIS delivery to public housing tenants.

6. Consistency of the disallowable instrument with the authorising law

The disallowable instrument is consistent with the object of the Act to increase opportunities for priority households to reduce energy use and cost.

The authorising law requires the Minister to set a PHT at least three months before the start of the compliance period to which the priority household target relates. The requirement is for the PHT to be established six-months before the start of the compliance period if the PHT is to be increased. Compliance periods are calendar years.

As the proposal is to retain, rather than to increase the PHT, the authorising law requires the PHT to be set at least three months before the end of 2017.

7. 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.

8. Reasonable alternatives to the disallowable instrument

Section 8 of the authorising law is explicit in its requirement for a PHT to be determined by the Minister and provides for no alternative. Alternatives to the disallowable instrument are therefore restricted to either a lower or a higher setting, or other pathways that provide for an achievable PHT.

The disallowable instrument sets the PHT at 20% for 2018.

The government recognises that reasonable alternatives include both a reduction of the PHT to 10% as recommended by ActewAGL, and a reduction to 15% if some actions are successful for increasing the pool of priority households. A 10% setting would be justified if there is no change to the pool of households eligible for meeting the PHT, meaning that there is a genuine risk that ActewAGL may fail to achieve a 20% PHT in 2018. A 15% setting would be justified if the pool of priority households is significantly expanded, but no arrangements are in place for ActewAGL to deliver EEIS activities to Housing ACT tenants.

The 20% setting relies on three options that are being actively pursued to maintain a high PHT while minimising the risk that the 2018 PHT target may be missed. Table 5 outlines these options, the pathways for their achievement, potential impact and likely timing. The table also summarises the likelihood and impact of each option in terms of its current capacity to support 2018 PHT compliance.

The first option, of reviewing the EEIS and potentially amending the PHT formulation in the Act, cannot be achieved until the end of 2018. The review is also not guaranteed to result in

an amendment to the PHT formulation. This option therefore cannot assist with 2018 PHT achievement.

The second option of supporting EEIS delivery to ACT Housing tenants is being progressed through relevant government procurement processes.

The third option of increasing the scope of the PHT by adding new categories is underway and can deliver results in time for the 2018 compliance year. The expansion of PHT to households accessing approved financial hardship programs in particular, will add significantly to the PHT eligibility and will make it easier for ActewAGL to achieve its target.

Together, the second and third options are considered sufficient to reject ActewAGL's suggestion of reducing the PHT to 10%, and justify a continuation of the 20% target. This is a positive outcome for both low income households and small businesses as it avoids a trade-off between the two groups, encouraging business benefits and maintaining absolute levels of benefits to priority households.

A fourth option of reducing the PHT has been considered, however expected success in implementing other options makes this option unnecessary.

Table 5 Options for supporting PHT achievement

Option	Pathway	Likely impact	Likely timing	Likelihood and impact
Review the Act's formulation of the PHT and consider alternatives if needed.	A review of the Act is scheduled to commence in late 2017.	Could result in a new formulation where PHT is a proportion of residential abatement.	Review in 2017 for updates by late 2018 or early 2019.	Trade-off of small businesses against priority households makes this uncertain
Support the delivery of EEIS activities to ACT Housing tenants	Work is underway with ACT Housing to support a contract for an EEIS activity delivery program	Could provide contractual arrangements sufficient to achieve a 20% PHT	Proposed from 2017-18 financial year, but not yet confirmed	Arrangements not yet sufficiently progressed to assure success
Increase the scope by adding new categories of eligible households	A regulation is proposed to add new categories of eligible households	May increase the number of eligible households by up to 10%	Commencement in early 2018	Highly likely to be completed in time for 2018

9. Assessment of benefits and costs of the disallowable instrument

EEIS projected benefits 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.

For the purposes of the modelling, all household costs and savings assumed a 20% priority household target for the period 2016 to 2020. The PHT was lowered from 25% to 20% for 2016 and 2017 based on analysis that this would “balance the costs to consumers, while ensuring priority households in the Act continue to benefit from the EEIS”¹⁷. The proposed extension of PHT eligibility combined with increased business activity will continue to balance these costs. Modelling results are not conclusive about the economy-wide impacts of increased business participation, combined with an expanded PHT cohort, but there is no reason to think that benefits will decrease with this combination.

10. Human Rights

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

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

The terms of reference of the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) 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.

¹⁷ EEIS RIS setting key scheme parameters to 2020 by Disallowable Instruments. Available at http://www.legislation.act.gov.au/ri/db_52787/current/pdf/db_52787.pdf , p. 5

The position in relation to each term of reference is as follows.

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

As noted above, the disallowable instrument is in accordance with the general objects of the Act.

(ii) unduly trespasses on rights previously established by law

The disallowable instrument does not unduly trespass on rights previously established under law.

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

The disallowable instrument does not make rights, liberties and/or obligations unduly dependent upon non reviewable decisions.

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

The disallowable instrument and the process of setting a priority household target is a requirement of the Act. The Act requires that a PHT be established by disallowable instrument and that is the sole purpose of this instrument.

12. Conclusion

The disallowable instrument sets the EEIS Priority Household Target at 20% for 2018. This result maintains the absolute level of support for low income households while supporting the EEIS extension to businesses.

The 20% EEIS PHT maintains opportunities for low income households to reduce energy use and cost. It requires that obligated retailers deliver a proportion of total EEIS abatement in households with concession card holders in residence. The PHT was set at 25 per cent between 2013 and 2015 and 20 per cent since 2016. The PHT has been consistently achieved throughout the life of the EEIS. With inequality increasing and some increasing and uncertain energy prices, the need for priority household support remains as pressing as ever. The need to support low income households is balanced with the value of extending EEIS benefits to business, which makes it harder for the Tier 1 retailer to achieve the PHT. Consultation suggested that despite best efforts, there is a genuine risk that the Tier 1 retailer may fail to achieve a 20% PHT in 2018, all other things being equal.

The government is delivering on three options to manage the risk of the Tier 1 retailer missing the PHT in 2018:

- Reviewing the formulation of the PHT and considering alternatives if needed,
- Supporting the delivery of EEIS activities to Housing ACT tenants, and
- Increasing the scope of the PHT by adding new categories of eligible households.

The first option cannot guarantee an easing of the risks that the PHT may be missed in 2018. The second and third options significantly increase the number of eligible households, and justifies a higher PHT than was requested by the Tier 1 retailer. Maintaining the PHT target at 20% in 2018 helps to support the EEIS expansion to the business sector while maintaining assistance for low income households. This setting is considered to be the best outcome for achieving the EEIS policy goals.

Appendix 1 Data and assumptions in heating cost calculations

Seasonal energy use for the air conditioners and all heating loads are calculated using AS/NZS 3823.4.2:2014 Amendment 1 Air-cooled air conditioners and air-to-air heat pumps – Testing and calculating methods for seasonal performance factors – Heating seasonal performance factor (ISO 16358-2:2013 (MOD)).

Table 6 Test data used for calculations.

Unit	7° C Rated capacity W	7° C rated power input W	7° C half capacity W	7° C half capacity input W	2° C Rated capacity W	2° C rated power input W
3 Fixed speed Window/wall unit	5514*	1774*	na	na	3525*	1535*
4 Variable speed window/wall unit	5514*	1774*	2757	835^	3525*	1535*
6 Variable speed, non- ducted split system	5514^	1521^	2757	566^	5222*	1886*
7 Variable speed, non- ducted split system	5514^	1130^	2757	492^	8848*	2465*
8 Ducted heatpump	16000*	4410*	8000^	1805^	13849*	4761*

* Tested value

^ Modelled from other test results

The loads are based on the temperature bins in the standard. These are based on Typical Meteorological Years for Canberra and Richmond that were created for the Nationwide Home Energy Rating Scheme (NatHERS) in 2016. The data has been modified to take into account residential air conditioning usage patterns. Canberra's heating season is 1 April to 31 October. The hours are shown below.

Table 7 Canberra heating seasons

Outdoor temperature °C	CANBERRA number of hours
-10	0
-9	0
-8	0
-7	0
-6	3
-5	13
-4	22
-3	44
-2	54
-1	69

0	77
1	116
2	121
3	156
4	169
5	216
6	238
7	327
8	262
9	245
10	189
11	163
12	101
13	52
14	23
TOTAL	2660

Gas conversions:

1 kWh = 3.6 MJ

1 MJ = 0.277777777778 kWh