Justice and Equity Centre

Energy Savings Scheme: Rule and Regulation Change 2025 Consultation Paper

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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The Justice and Equity Centre office is located on the land of the Gadigal of the Eora Nation.

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1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the NSW Department of Climate Change, Energy, the Environment and Water' (DCCEEW) Energy Savings Scheme: Rule and Regulation Change 2025 consultation paper (the Paper).

Efforts to reduce energy consumption and emissions through investment in energy efficiency are a critical enabler of an energy transition that delivers the best outcomes for NSW households. The Energy Savings Scheme (ESS) plays an important role in supporting this transition by reducing peak demand, lowering emissions, and helping households and businesses cut their energy costs. It is a robust foundation to build on, but much greater efforts to leverage the opportunities presented by improved energy efficiency are required.

We support the intent of the proposed updates to continue to improve the ESS and ensure it remains effective, equitable, and aligned with broader policy frameworks such as the NSW Consumer Energy Strategy. It is important that the scheme evolves to support the uptake of low-emissions technologies, discourage the use of fossil fuels, and ensure that NSW households experiencing vulnerability and disadvantage are prioritised.

We broadly support the proposed rule and regulation changes to the ESS. In this submission, we offer a series of recommendations to strengthen the design, delivery, and long-term impact of the scheme. These include:

- aligning certificate conversion factors with the expected decarbonisation trajectory of the electricity grid;
- phasing out support for technologies and activities that no longer deliver material energy savings or emissions reductions, such as residential and commercial lighting and gas appliances;
- supporting measures to ensure expected energy savings are delivered through high-quality, safe, and consumer-focused installation practices;
- strengthening consumer protections by prohibiting unsolicited and misleading sales tactics and improving targeting of scheme benefits; and
- leveraging the ESS to drive uptake of technologies and behaviours that contribute to system-wide benefits, such as demand response and appliance repairability.

Our recommendations aim to ensure the ESS delivers meaningful, long-term benefits for all NSW households, and continues to play a central role in an equitable, decarbonised energy future for NSW.

2. Phase out incentives for lighting in favour of activities that deliver greater benefits to consumers

The JEC supports discontinuing the commercial lighting energy savings formula.

The commercial lighting energy savings formula should be discontinued as LED technology has reached market maturity. Regulatory changes, including the National Construction Code 2022, are already driving the transition to LED lighting, and further improvements in luminous efficacy

are becoming increasingly marginal. Discontinuing this formula would also enhance policy alignment between the ESS and similar programs in other jurisdictions.

The Department should also consider phasing out incentives for residential lighting following a materiality assessment. Market changes, such as removing low-efficiency lighting from sale, provide a more efficient and effective approach than continuing to allocate certificates to residential lighting upgrades, which deliver diminishing benefits for households and emissions reductions. Such activities may contribute to 'the market' but do so with insufficient benefit to the wider objectives of the scheme and NSW government energy and climate policy.

Removing residential lighting activities would help advance objectives to reduce energy bills under the Consumer Energy Strategy by ensuring the ESS prioritises activities with the greatest potential to improve household energy efficiency. Phasing out incentives for commercial and residential lighting could be structured to maintain the scheme's overall impact while enhancing tangible benefits for households by focusing instead on measures that promote health, wellbeing, and equity as well as emissions reduction and energy savings.

The removal of residential lighting incentives would ensure the certificate generation process is focused on areas with the most material impact and the greatest potential to support efficient electrification and broader energy saving objectives. We share the view set out in the Paper that the phase-out of poor-performing residential lighting is more effectively achieved through other measures.

We consider a six-month transition period to be reasonable and, at most, the longest timeframe necessary.

3. Incentivise replacing gas boilers with efficient electric alternatives

The JEC supports discontinuing gas boiler installation/replacement activities.

These activities are no longer justified as incentivising investment in new gas appliances poses a risk of asset stranding and undermines broader electrification and emissions reduction efforts. Given the limited uptake under the relevant activity definitions, the impact of this change would be minimal though its impact as a clear signal of the commitment to electrification would be significant. We also support the removal of ESS incentives for performance efficiency improvements of gas boilers.

Converting gas appliances to electric can significantly reduce energy costs, as heating, cooling, and hot water systems—often gas-powered—are typically the highest energy-consuming appliances in a household and many commercial operations.

Transitioning away from gas also provides health benefits by reducing exposure to indoor air pollutants linked to respiratory conditions such as asthma. The Department should consider strengthening incentives to replace gas boilers with efficient electric alternatives and examine cost-sharing arrangements to assist consumers seeking to permanently disconnect from the gas network.

We consider the proposed mid-2025 implementation timeframe appropriate.

4. Strengthen warranty requirements for heat pump hot water systems

The JEC supports measures to improve the standards and warranty coverage for heat pump hot water systems eligible for ESS incentives.

The absence of warranty requirements in existing activities related to hot water systems reduces the incentive to install quality appliances. This also creates the risk that early equipment failures lead to replacement with less-efficient alternatives and undermine confidence in heat-pump technology more broadly. This would result in increased energy consumption and curtail the pace of and support for a rapid transition.

Important operational considerations

Where heat pump hot water systems are connected to controlled load circuits there is a risk that excessively cycling of these appliances will adversely affect their longevity and result in poor outcomes for consumers. This is growing risk given responsibility for managing controlled load is shifting from distributors (where such activities have been more transparent and predictable) to retailers (where they are often hidden and responding to a range of unclear incentives).

Previously, retailers were required to allow devices connected to a controlled load circuit to run throughout the entire controlled load period – typically overnight. However, efforts to utilise surplus solar generation during the middle of the day have led distributors to adopt more flexible controlled load orchestration regimes.

These new arrangements give retailers discretion to power cycle devices within a controlled load period as they see fit provided they meet a minimum threshold for hours of operation across a day. We understand retailers are using this discretion to manage their wholesale market risk rather than to mitigate network constraints.

Short cycling hot water systems inhibits the legionella sterilisation process, impacts consumer amenity through loss of hot water, and creates undue wear and tear on components leading to more frequent repair needs and early replacements.

As such, we recommend the Department work with distributors and other market participants to limit the use of short cycling and ensure that controlled load management is undertaken more transparently, and more consistently supports the interest of consumers.

Requiring product and installation warranty

We strongly support the proposal to update the equipment requirements for all heat pump hot water system activities in the Rule to include whole-of-system product warranty on all major components of at least five years. This would promote the installation of high-quality products and provide stakeholders with confidence that the scheme delivers assumed efficiency and emissions reductions benefits. As part of these reforms, the Department should also explore opportunities to

actively remove poorly performing products from the scheme, even where formal standards may not yet exist.

Given the range of issues that can arise from poor installation practices, aligning the installation warranty period with product warranty is necessary. This measure could be supported through further efforts to improve the consistency and quality of installer standards through enhanced training, quality assurance processes, and robust business practices.

The Department should also consider requiring scheme participants to be members of the Energy & Water Ombudsman NSW (EWON) and subject to its dispute resolution processes, to strengthen consumer protections and accountability. This would align with consumer expectations that energy and energy related products and services are within the jurisdiction of EWON.

Update standards and compliance regimes to ensure heat pumps deliver assumed benefits

We are interested to understand the factors driving overestimated energy savings under current modelling procedures for heat pump hot water system activities. That is, are savings being overestimated due to assumed performance that is not being delivered (i.e. due to poorly performing products or poor installation practices) or for some other reason? For instance, could the operational behaviour of installed products, including examples noted above, be contributing to observed deficits between operational and assumed energy savings?

We share concerns about the quality of products, installations, and customer protections under the existing scheme and agree action is needed and that these issues should be addressed as a matter of urgency. To this end, we support raising standards across the board, even if this results in a temporary drop-off in activities as the scheme and providers adjust. A transitionary slow-down would be a reasonable trade-off considering the long-term life of the installed products and the material impact quality has on scope to realise assumed benefits.

The Department should likewise work to implement a robust compliance and enforcement regime to ensure installers and OEMs effectively apply and adhere to prescribed standards. We encourage the Department to work with the AEMC and other stakeholders to deliver the recommendations from the Review into CER technical standards[1]. The Department should also consider the extent to which additional support for domestic production and local industry could improve the quality and integration of heat pump hot water systems, given this is an area where a substantial domestic manufacturing capability already exists.

5. Prioritise restricting the sale of the lowest-performing appliances

Improving the overall standards of appliances available for sale, along with enhancing sales practices – particularly for the most energy-intensive products – is essential. We acknowledge that the current Sale of New Appliances (SONA) method is not driving additional energy savings

[1] See AEMC Review into consumer energy resources technical standards Final Report.

and agree that reform is necessary. However, we recommend that the department consider options to review and target or strengthen the SONA method, prior to discontinuing the activity.

Potential reform and retargeting of SONA

Potential revisions to the SONA calculation method could prioritise restricting the sale of the lowest-performing appliances, rather than incentivising the sale of only the highest-performing products. Greater impact is likely to be achieved by shifting consumer purchases away from inefficient appliances toward moderately efficient ones, rather than from moderately efficient to best-in-class products. In this context, the avoided sale of poor-performing appliances is more consequential than targeting the sale of high-performing ones.

The Consumer Policy Research Centre (CPRC) is currently completing a research project investigating consumer experience of appliance purchase and consumer decision-making in relation to appliance efficiency[2]. Early results from this research provide useful insights into potential changes which could better support improved efficiency in appliance sales, including the introduction of consistent language and ratings for products (which could be required from scheme participants). Introducing an overall standard to retail participants in the scheme – similar in structure to the fuel efficiency standard which applies a weighted standard across all vehicles sold – could provide an effective added incentive to remove inefficient products from their overall business. This would encourage scheme participants to promote a higher average level of efficiency across the entirety of their sales and is likely to be more impactful than attempts to encourage the sales of high-end, very efficient products.

The CPRC recommendation for the introduction of a standardised repairability rating for major household appliances in response to the Productivity Commission's inquiry into the circular economy could also be considered as part of potential SONA reforms. Such a rating system would support more informed consumer decisions, encourage a shift toward a circular economy, reduce environmental waste, and deliver long-term cost savings through improved product choices.

Should reforms of this nature be deemed impractical or unlikely to deliver sufficient material benefit, the JEC would support ceasing this activity and targeting more effective methods of certificate generation.

6. Promote participation in demand response through air conditioning activities

Air conditioning activities could achieve additional energy savings through facilitating the adoption of demand response functionality and promoting participation in demand response programs. These efforts should be designed to enable and complement the HVAC activities under the Peak Demand Reduction Scheme.

Mandating demand response capability in all new air conditioners is essential, given that air conditioners account for approximately a third of total electricity demand on peak days. Requiring

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2 See CPRC Consumer decision-making in energy-efficient appliance purchases

physical demand response capability in new units reduces barriers to program participation and helps establish the foundations for a large, efficient, and accessible demand response market evolving the approach taken through the 'PeakSmart'[3] program.

While integrating inbuilt demand response functionality is preferable to retrofitting units with external smart controllers, the department should explore opportunities to improve access to this capability under the activity. For example, South Australia has mandated that all new air conditioners include built-in demand response enabling devices (DREDs). The Department should consider relevant learnings from the South Australian experience to inform the ESS.

Efforts to increase demand response participation should also be supported by the development and implementation of appropriate interoperability standards. These standards are critical to ensuring reliable and predictable load reduction, and they require that energy data be visible and accessible to consumers, distributors, and aggregators, to enable effective coordination, monitoring, and verification of demand response events.

7. Ban telemarketing and door-knocking campaigns

The JEC strongly supports banning unsolicited sales – including telemarketing and door-to-door sales campaigns – of energy efficiency upgrades eligible for ESS incentives. This is a critical measure as part of wider reforms to stamp out exploitative practices which threaten to undermine social licence for new technology and inflict serious harm on many vulnerable NSW households. Unsolicited sales are an ineffective and inappropriate method for promoting appliance replacements and undermine a consumer's ability to make informed decisions about whether a product is necessary or fit for purpose.

Banning these practices would significantly strengthen consumer protections and address the broader issue of unscrupulous business practices emerging around incentive schemes. In addition, the Department should consider adopting a firmer position on digital advertising, particularly where these practices target vulnerable or low-information consumers. Specifically, where advertisements misrepresent the terms of government support or schemes and create an inflated expectation to generate interest in sales of products and activities which are not affiliated with the government scheme. The Department should work with Fair Trading and other NSW agencies to respond to this behaviour.

High-pressure sales tactics, including door-to-door sales, are already having demonstrably harmful impacts on NSW households[4] and should have no place in the effective and appropriate promotion of renewable energy products or energy efficiency upgrades. Prohibiting these practices is critical to protecting consumers from predatory or misleading conduct.

Energy efficiency upgrades, products, and services offered under the ESS should be promoted to households most likely to benefit from them. This includes targeting rebate recipients, households with existing gas connections, residents of social and community housing, and large households

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3 See Energex PeakSmart air conditioning rewards

4 The JEC is working with EWON, financial counsellors, LegalAid NSW and the Consumer Action Law Centre (CALC) to highlight consumer experiences and can provide the Department with example case-studies.

with high energy use. This targeting should be mediated through managed and monitorable channels, such as ServiceNSW, rebate schemes, and social housing providers. The scheme and how it is targeted should seek to promote more equitable outcomes – particularly given that disadvantaged households pay a disproportionate share of scheme costs through their energy bills.

The Department should not dedicate undue energy to assessing the short- and long-term consequences of banning these harmful sales practices but treat this reform as an opportunity to intentionally evolve the scheme to meet current needs while eliminating existing harms and preventing further serious risks of harm – especially for vulnerable consumers. This process should accordingly assess measures to reform how scheme participants target and connect with those they provide products and services to, including the creation of a central delivery platform.

8. Support long-term decision-making through certificate conversion factors

Certificate conversion factors should reflect prospective, rather than point-in-time, values for the emissions intensity of different fuels relative to grid electricity. Specifically, these factors must account for the rapid decarbonisation of the electricity system compared to the slower emissions reductions associated with natural gas and other fossil fuels.

If conversion factors are not regularly updated to reflect these trends, there is a risk that the ESS misrepresents the emissions reduction potential associated with fuel switching and electrification. This would undermine the integrity and effectiveness of the scheme's incentives. Similarly, the emissions impact of gas connections and appliances should be updated to reflect contemporary understanding of the extent and impact of fugitive methane emissions in the period to 2035.

Given that many appliances supported under the scheme have operational lifespans of five to ten years or longer, it is essential that conversion factors support informed, long-term decision-making by accurately reflecting future emissions outcomes.

We support using a 10-year average of forecasted non-renewable primary energy factors for NSW grid electricity, insofar as this approach aligns with the grid decarbonisation trajectory and incorporates the latest projections. In addition, the Department should explore mechanisms to ensure that conversion factors are dynamically updated, so they continue to reflect the decreasing emissions intensity of the NSW electricity grid.

9. Continued engagement

We welcome the opportunity to meet with the NSW DCCEEW project team and other stakeholders to discuss these issues in more depth. Please contact Jan Kucic-Riker at jkucicriker@jec.org.au regarding any further follow-up.