



Commitment Agreements during Covid-19
Guidance Document
Version 1.0 – October 2020

1 Introduction

1.1 Summary

This guidance document has been developed by the **National Administrator**. It provides guidance on managing the NABERS certification requirements for Commitment Agreements, and the effects that COVID-19 is having on this process.

The audience of this document is building owners and managers whose premises are under a current Commitment Agreement.

This document only applies to Commitment Agreements made for Offices.

For Commitment Agreements for other types of buildings (e.g. Hotels, Shopping Centres, Data Centres and Apartment Buildings), please contact the **National Administrator**.

The **National Administrator** will continue to monitor the changing circumstances brought on by the spread of COVID-19 and may amend the content or process within this guidance document as the situation unfolds.

1.2 Background

The **National Administrator** has received feedback from stakeholders regarding a potential issue COVID-19 may create in respect to meeting the obligations of a Commitment Agreement.

The key issue is that lower occupancy during the COVID-19 period could result in improvements in NABERS star ratings due to lower levels of consumption.

For example, a building's NABERS rating during the **COVID-19 affected period** may meet the target threshold of their Commitment Agreement, where it might not if the building were rated under normal operation (pre-COVID-19).

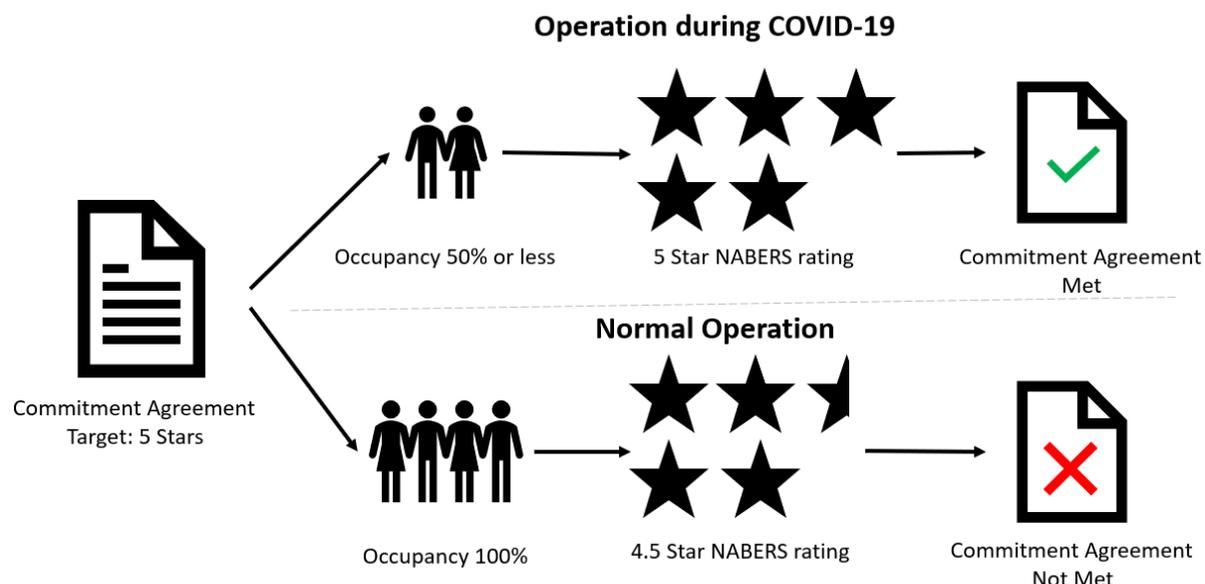


Figure 1 – Possible effect of COVID-19 on Commitment Agreements

After review, the **National Administrator** has determined that signatories that wish to pursue the normal course of their Commitment Agreement can continue to do so. Such an approach is consistent with how the **National Administrator** has dealt with other issues created by COVID-19 (see the Ruling document: *Managing Impacts of COVID-19 on NABERS Ratings v4.0*).

It is recognised that ratings of certain premises which use COVID-19 affected data may not be a true reflection of such premises' normal operation. As such, the **National Administrator** is allowing premises with a Commitment Agreement that have experienced low **daily occupancy** to extend the start of data collection if they wish to do so.

2 Terms and definitions

This chapter lists the key terms and their definitions that are integral to the proper use of this document.

Term	Definition
Applicant	The counterparty of a Commitment Agreement.
Covid-19 affected period	The period of the 23 March 2020 to the present.
daily occupancy	<p>The total number of people physically present within a premises during normal weekday operation (typically 9am to 5pm, Monday to Friday, although this may be dependent on the building).</p> <p>Only people whose primary place of work is the premises can be counted to towards this total.</p>
expected occupancy	<p>The maximum expected number of people within a premises during normal weekday operation (typically 9am to 5pm, Monday to Friday, although this may be dependent on the building).</p> <p>Only people whose primary place of work is the premises can be counted to towards this maximum.</p> <p>Note: This is not the maximum design or possible occupancy of the premises, but the number of people reasonably expected to be working in the premises on any given day.</p>
National Administrator	<p>The body responsible for administering NABERS, in particular—</p> <ol style="list-style-type: none"> establishing and maintaining the standards and procedures to be followed in all aspects of the operation of the system, and determining issues that arise during the operation of the system and the making of ratings, and accrediting Assessors and awarding accredited ratings in accordance with NABERS standards and procedures. <p>The functions of the National Administrator are undertaken by the NSW Government through the Department of Planning, Industry and Environment.</p> <p>Source: Chapter 2, Terms and definitions, <i>The Rules – NABERS Energy and Water for Offices</i> (v4.1).</p>

3 Premises where data collection has not begun

Where a premises has not started collecting data for the purpose of meeting the requirements of a Commitment Agreement, the requirements of the Commitment Agreement continue to apply as normal. This includes the eligibility criteria defining when data collection can start.

Please contact the **National Administrator** if further guidance or clarifications are required.

4 Premises where data collection has begun

4.1 Eligibility

Where a premises has started collecting data for the purpose of meeting the requirements of the Commitment Agreement, the **Applicant** may apply to the **National Administrator** to extend the date of either of the following:

- a) The 'Planned Performance Rating Date', for Commitment Agreements signed prior to 1st July 2019; or
- b) The 'Data Collection Start Date', for Commitment Agreements signed after 1st July 2019.

Note: Section 4.3 outlines what the new date for either the 'Planned Performance Rating Date' or the 'Data Collection Start Date' is, depending on when the Commitment Agreement was signed.

Approval to extend will be given by the **National Administrator**, provided the premises has—

- 1) met the NABERS rating eligibility criteria of the rating type, as defined in the Commitment Agreement;
- 2) collected COVID-19 impacted data during the rating period; and
- 3) experienced a period(s) of 'low' **daily occupancy** (as defined in Section 4.2), as a direct result of government mandated social distancing restrictions or lock down due to the COVID-19 pandemic.

If the above requirements have been met, the **Applicant** must submit documentary evidence (see Section 4.4) to the **National Administrator** for confirmation of eligibility and approval to extend the data.

4.2 'Low' daily occupancy

'Low' **daily occupancy** is defined as the situation where, over a cumulative 90 days in the **COVID-19 affected period**, the **daily occupancy** of people physically present within a premises is less than 50 % of the premises' expected occupancy.

The following example highlights how 'low' **daily occupancy** can be determined.

Example:

A building is designed such that the premises' **expected occupancy** under normal weekday operation is 1,000 people.

Due to government mandated social restrictions, the premises recorded the following **daily occupancy** (average per week):

- 3 weeks: 700 people per day
- 6 weeks: 0 people per day
- 4 weeks: 500 people per day

Therefore, the recorded average over a 90-day period is 315 people per day present within the premises.

Evidence must be provided to prove 'low' **daily occupancy**. Section 4.4 outlines what documentation can be used as evidence.

4.3 New data collection start date

4.3.1 Commitment Agreements signed before 1st July 2019

Where a premises has been deemed eligible by the **National Administrator**, the "Planned Performance Rating Date" as stated in the premises' Commitment Agreement can be extended once, by a period of up to 12 months.

Once extended, data collection must be restarted when the average **daily occupancy** of the premises is greater than 75% over a consecutive 30-day period. See Section 4.5 for further information on when to resume data collection.

Appendix A contains a flowchart outlining the process highlighted in this guidance document.

Note 1: It is expected that a premises which has been approved to extend the "Planned Performance Rating Date" will perform the required NABERS rating within the new time period with no further extensions. If you believe this may be an issue, please contact the **National Administrator**.

Note 2: This requirement only applies in relation to fulfilling the requirements of a Commitment Agreement. A premises may still collect data and seek a NABERS rating prior to the Performance Rating Date if required. Situations where this may occur include meeting the requirements of BEEC certification.

Note 3: NABERS Rules define the rating period as “The 12-month base period for the rating, requiring at least 12 contiguous months of acceptable data upon which the rating is based.” This means that you cannot use data collected prior to the restart in conjunction with data collected once the extension period is complete.

Example:

An office building has a Commitment Agreement signed before 1st July 2019, with a “Planned Performance Rating Date” of 1st April 2021.

The building started collecting data on 1st February 2020 (before the **COVID-19 affected period**) as it met the requirement that 75 % of the office NLA be occupied by tenants.

During the **COVID-19 affected period** the building experienced 'low' **daily occupancy** (as defined in Section 5.2).

The **Applicant** applied for and was granted an extension of their Commitment Agreement's Performance Rating Data.

Therefore, the new “Planned Performance Rating Date” is 1st April 2022.

4.3.2 Commitment Agreement signed after 1st July 2019

Where a premises is deemed eligible by the **National Administrator**, the “Planned Data Collection Start Date”, as stated in the Project Detail Form of the premises' Commitment Agreement, is to be extended once by a period of up to 12 months.

Once extended, data collection must be restarted when the average **daily occupancy** of the premises is greater than 75% over a consecutive 30-day period. See Section 4.5 for further information on when to resume data collection.

Appendix A contains a flowchart outlining the process highlighted in this guidance document.

Note 1: It is expected that a premises which has been approved to extend the “Planned Data Collection Start Date” will begin collection within the new time period with no further extensions. If you believe this may be an issue, please contact the **National Administrator**.

Note 2: This requirement only applies in relation to fulfilling the requirements of a Commitment Agreement. A premises may still collect data and seek a NABERS rating prior to the Performance Rating Date if required. Situations where this may occur include meeting the requirements of BEEC certification.

Example:

An office building has a Commitment Agreement signed after 1st July 2019, with a “Planned Data Collection Start Date” of 1st February 2021.

The building started collecting data on 1st February 2020 (before the **COVID-19 affected period**) as it met the requirement that 75 % of the office NLA be occupied by tenants.

During the **COVID-19 affected period** the building experienced 'low' **daily occupancy** (as defined in Section 5.2).

The **Applicant** applied for and was granted an extension of their Commitment Agreement's “Planned Data Collection Start Date”.

Therefore, the “Planned Data Collection Start Date” is 1st February 2021.

4.4 Evidence requirements for low daily occupancy

Acknowledging that recorded evidence of occupancy may not be readily available for all buildings, the **National Administrator** has implemented a points-based evidence system.

To prove low **daily occupancy**, a minimum of 100 points of evidence must be provided to the **National Administrator**. Table 4.1 outlines the type of evidence, example of evidence and the points that will be awarded.

Table 4.1: Evidence of low daily occupancy

Points	Type of evidence	Examples of evidence
100	Quantitative, direct evidence	<ul style="list-style-type: none"> Daily swipe card access records Records of staff IP locations Daily physical survey of all personnel physically present
75	Qualitative, direct evidence	<ul style="list-style-type: none"> Survey of staff working patterns Recorded 'Working From Home' requests Signed statement from tenant(s) of office closures
50	Indirect evidence	<ul style="list-style-type: none"> BMS data showing reduction in service level Weekly physical survey of all personnel physically present Tenant policies outlining social distancing strategies employed Signed statement from tenant(s) of a reduced number of staff in the office Written agreements between building management and tenant(s) for either reducing or shutting down of servicing to tenancy
		<ul style="list-style-type: none">

The following requirements apply to evidence provided:

- a) Evidence must clearly apply to a specific time period.
- b) Multiple pieces of evidence from the same type of evidence may be submitted.
- c) All submitted evidence will be assessed individually to determine applicability.

The examples provided in Table 4.1 are not an exhaustive list of evidence that can be provided. **Applicants** are encouraged to get in touch with the **National Administrator** to discuss other possible evidence types that may be provided.

4.5 Resumption of data collection

Data collection for a NABERS rating for the purpose of meeting the requirements of a Commitment Agreement must begin when a premises—

- a) has been granted an approval to an extension to the Commitment Agreement dates as determined in Section 4.3, and
- b) has achieved an average **daily occupancy** level of greater than 75 % of the premises' **expected occupancy** over a consecutive 30 day period.

Example:

A building is designed such that the premises' **expected occupancy** under normal weekday operation is 1,000 people.

The building has been granted approval to extend their planned Data Collection Start Date to 1st July 2021.

The building recorded the following **daily occupancy**:

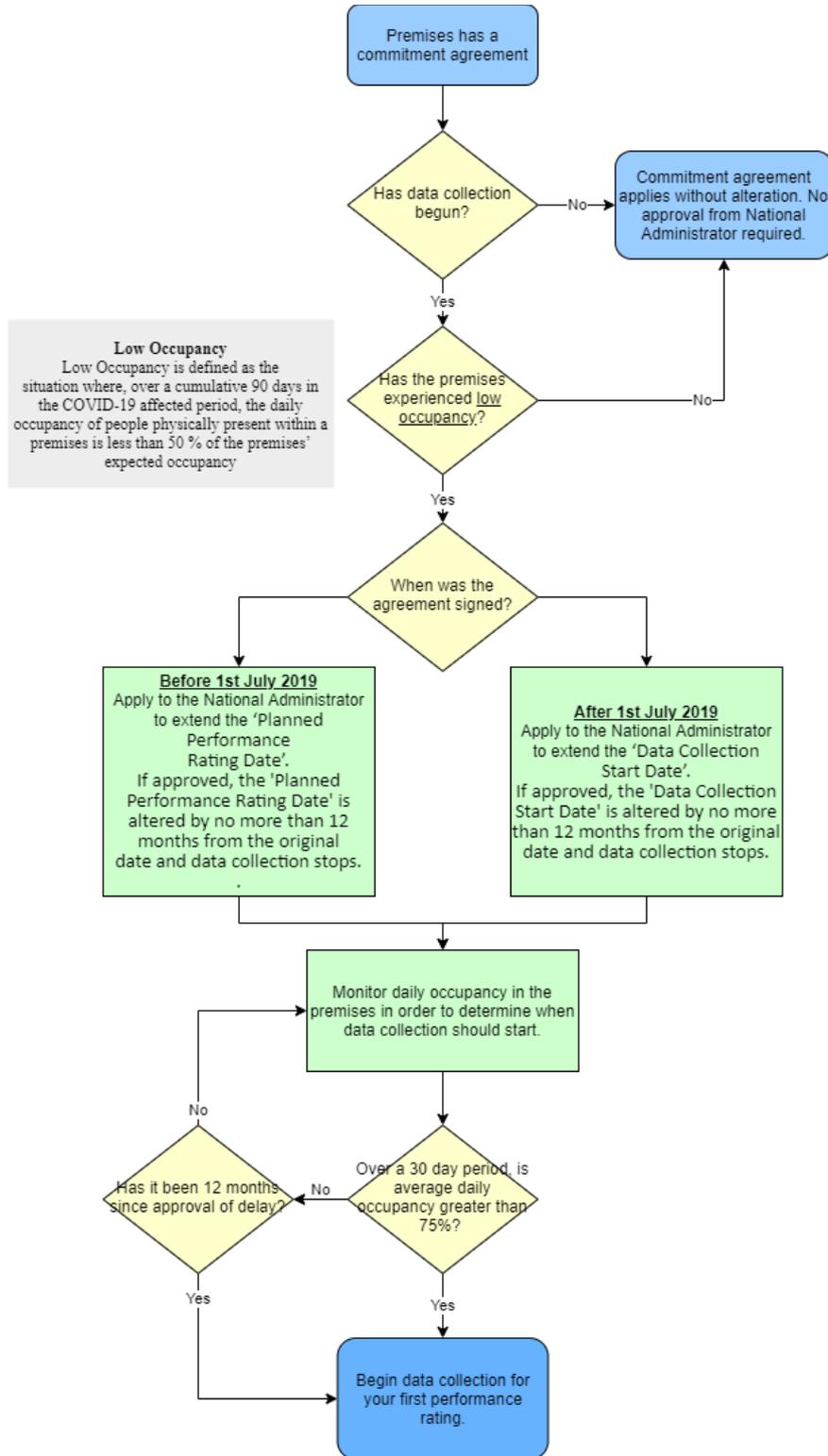
- 1-7 February: average of 700 people per day
- 8-14 February: average of 700 people per day
- 15-21 February: average of 750 people per day
- 22-28 February: average of 800 people per day
- 1-2 March: average of 850 people per day

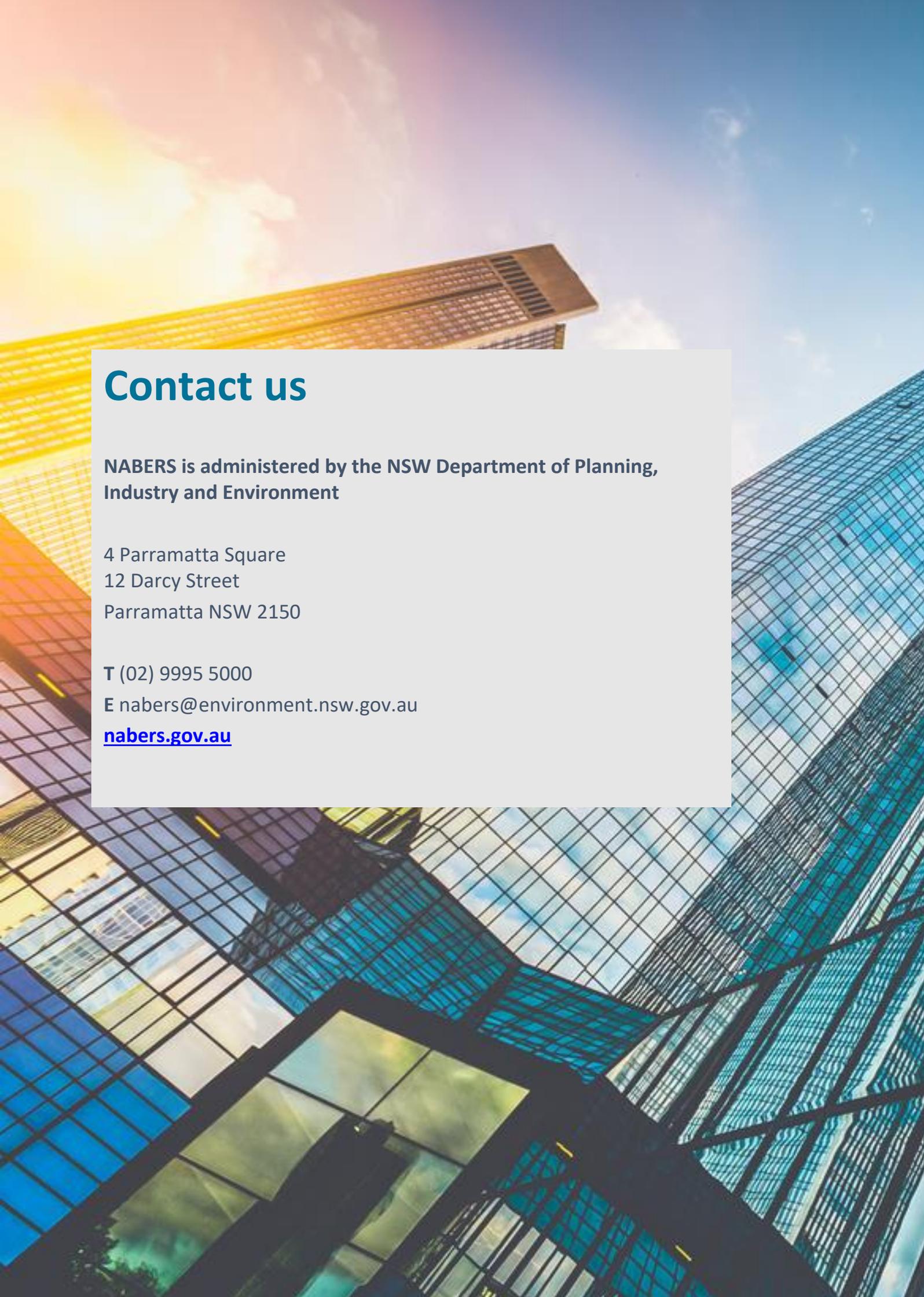
Therefore, the recorded average over a 30-day period is 760 people per day present within the premises.

As this is greater than 75 % of the premises' **expected occupancy** under normal weekday operation, data collection for this building must begin.

Appendix A – Flowchart

The following flowchart summarises the entire process outlined in this guide.





Contact us

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