

Future of COVID-19 Rulings

Joint Consultation Paper

February 2021



A joint consultation by the CBD Program and NABERS



NABERS is administered by the NSW Department of Planning, Industry and Environment

1 Introduction

The COVID-19 pandemic has changed the way many buildings are used. This has had an impact on NABERS rating results (see the NABERS COVID-19 data gallery and article info box in Section 2). These impacts are primarily driven by changes to occupancy levels within buildings as a result of government mandated restrictions and social distancing measures. In response to impacts that prevented Assessors from conducting NABERS ratings, NABERS implemented several COVID-19 Rulings (see NABERS document: *Managing Impact of COVID-19 on NABERS Rating*).

Greater control of the pandemic over the course of 2020 has resulted in the general easing of restrictions and opening of State and Territory borders within Australia. Assessors have become less reliant on the COVID-19 Rulings to conduct NABERS ratings. However, due to the unpredictable nature of the pandemic, there has been an emergence of COVID-19 hotspots, such as Melbourne in July 2020, Adelaide in November 2020 and Sydney in December 2020. This resulted in temporary implementation of restrictions and border closures in specific geographical areas. These sporadic outbreaks have shown the need to retain the COVID-19 Rulings in the long term in case of future hotspots.

With the on-going development of a vaccine for COVID-19, it is possible we may see more aspects of normal life return in 2021. To better understand the long-term requirements of the pandemic and to prepare for the post-pandemic period, NABERS has begun considering how we could transition away from reliance on the COVID-19 Rulings towards normal usage of the NABERS Rules.

We also recognise some impacts of COVID-19 may transcend the pandemic period. While the latest office occupancy figures show a trend of people returning to work in offices as lockdown and travel restrictions have eased¹, it is possible occupation patterns will change as people and businesses embrace more flexible working arrangements. NABERS acknowledges that the existing NABERS Rules may need to be revised to account for this 'new normal'.

A joint consultation activity was held with the Commercial Building Disclosure (CBD) program in August 2020, where we sought initial views from stakeholders on conducting site visits for NABERS ratings. The feedback from the initial consultation has been used to guide the development of this consultation paper.

Note: Sections & Subsections referred to in this consultation paper only apply to version 4.1 of the NABERS document: *Managing Impact of COVID-19 on NABERS Ratings*.

¹ See Property Council of Australia, 'Australian CBD Office Workplaces Picking Up Momentum', published 6 Nov 2020, <https://research.propertycouncil.com.au/blog/australian-cbd-office-workplaces-picking-up-momentum>

1.1 Why are the CBD Program and NABERS teams releasing this consultation paper?

The CBD Program and NABERS teams have released a variety of additional rulings, technical documents and guidance material in recent months to assist accredited assessors and building owners to navigate the challenges associated with the coronavirus pandemic.

The CBD Program and NABERS are seeking stakeholder input to this consultation paper, to help understand how the commercial building industry can be supported during this difficult time, including NABERS, CBD Program Accredited Assessors and building owners.

1.2 How do I provide feedback?

Please send all submissions to the NABERS team, who will be collecting responses to both the CBD Program and NABERS components of this consultation paper:

- Written responses can be sent to NABERS at nabers@environment.nsw.gov.au
- Anonymous responses can be sent through the CBD website 'Contact Us' page at <http://cbd.gov.au/contact>

Note: When submitting via email, please ensure you enter '2021 COVID-19 Consultation Response' in the subject line.

1.3 When is the feedback deadline?

The CBD Program and NABERS teams are inviting stakeholders to provide feedback by close of business by Friday 5th March 2021.

1.4 Will my submission and my details be made public?

The CBD Program and NABERS teams will not make submissions or any author's details public. As noted above, there is an option to provide anonymous feedback through the CBD website 'Contact Us' page at <http://cbd.gov.au/contact>.

1.5 Will the CBD Program and NABERS teams include all the suggestions contained in my submission in future releases?

The CBD Program and NABERS teams will prioritise submissions that focus on the key issues currently being examined. If your feedback falls outside of the scope of the core enquiry, your suggestions will be noted for future reviews.

1.6 TLA Rules review coming in Q2 2021

The CBD Team is currently reviewing the TLA Rules (v3.1) and this process will include a public consultation in Q2 2021. Further information will be provided to CBD Assessors and CBD Program stakeholders shortly.

2 CBD Program consultation

2.1 General

In April 2020 the Commercial Building Disclosure (CBD) Program released a special COVID 19 Ruling to address the issues related to COVID-19 and CBD Program site assessments. This Ruling was reviewed in September 2020 and extended until 28 March 2021, but with an option for further extension if needed.

The CBD team has consulted with NABERS and propose to extend this COVID Ruling to 31 August 2021. CBD and NABERS are seeking input from stakeholders on how the commercial building industry can be supported during this difficult time.

Please send all submissions to the NABERS team at nabers@environment.nsw.gov.au.

2.2 CBD program COVID-19 consultation questions

1. Are you supportive of the CBD TLA Ruling expiring on its current expiry date of 28 March 2020? Why?
2. Are you supportive of the [CBD TLA Ruling](#) being extended to 31 August 2021?
3. If you are supportive of an extension to the CBD TLA Ruling, would you recommend any amendments to the [technical documents](#)? Please outline any specific scenarios that you have encountered that are not adequately addressed in [these documents](#).
4. What additional proposals could the CBD Program consider to help assessors, building owners and their agents during the coronavirus pandemic? For example:
 - a. What additional tools or resources would assist assessors?
 - b. What additional tools or resources would benefit stakeholders, such as office tenants, or building owners or their agents?
5. How could the [COVID related information on the CBD website](#) be improved to ensure information is clear and easy to locate?
6. Have you contacted the CBD operations and compliance teams for assistance with COVID related issues? If so, how could we improve our advice to you?
7. Do you consider there are sufficient COVID guidance materials being provided from the CBD operations team to keep you updated?
8. Would you be prepared to share information provided by the CBD operations team with your clients to allow them to understand how we can assist them with any issues they may be facing?

3 Post-COVID-19 trends and future of NABERS Rules

3.1 General

NABERS has recently published an online data gallery that provides quantitative analysis of the impact of COVID-19 on NABERS Energy & Water for Office Ratings. This is accompanied by an article that provides commentary on the trends highlighted in the data gallery (see box below).



To better understand COVID-19's impacts on NABERS Ratings, NABERS has released the following:

1. [NABERS COVID-19 Data Gallery](#)

The online data gallery summarises the impact COVID-19 has had on NABERS Ratings using anonymised data collected from all ratings submitted during the COVID-19 pandemic.

You can access the data gallery here: [Impacts of COVID-19 on NABERS ratings](#)

2. [NABERS COVID-19 Article](#)

In addition to the data gallery, NABERS has published an online article that provides commentary on the aggregate impact of COVID-19 on NABERS ratings for energy and water.

You can access the article here: [Lessons from COVID-19 to increase the resilience of our office buildings](#)

Note: Indoor Environment has not been included in the data gallery or article as NABERS is still analyzing the data on this rating type.

This section of the paper focuses on potential post-COVID-19 trends and possible future Rule changes NABERS should consider to account for longer-term changes.

3.2 Focus questions

- NABERS has recently published a data gallery and article (see box above). Do you have any comments on the analysis or conclusions made in the data gallery or article?
- NABERS ratings for Water have seen the greatest change due to COVID-19. It is believed this is tied to the occupancy levels within a building. Should NABERS consider a building's day-to-day occupancy level when looking for future Rule improvements?
- The pandemic has resulted in the greater uptake of more flexible working arrangements (e.g. Working From Home). This uptake may become a more permanent feature in the way people work. What are your views on this possible long-term trend and how should NABERS adapt to these trends?
- Restrictions on travel have meant that alternatives were needed for the requirements around physically conducting site visits, site measurements and site audits. NABERS has seen a large uptake and received positive feedback on the option to undertake these requirements virtually. Current Rules state that these requirements need to be conducted physically every year; however, NABERS is exploring allowing Assessors to conduct a virtual site audit every two years (i.e. 1st year – physical, 2nd year – virtual). What impacts, positive or negative, do you think this proposal may have on conducting NABERS ratings?

4 Future of the NABERS COVID-19 Rulings

4.1 Background

NABERS began development of a Ruling document to provide guidance to Assessors on the possible impacts of the COVID-19 pandemic on undertaking site visits in early March 2020. A webpage was launched on 19th March 2020 to seek feedback on the proposed new Rulings. The feedback was reviewed and incorporated into the first edition.

The first version (v1.0) of the document *Managing impacts of COVID-19 on NABERS rating* was published on 25th March 2020. This Document contains a collection of Rulings (known as the 'COVID-19 Rulings') that provide specific guidance on challenges that Assessors have faced when submitting a NABERS rating during the COVID-19 pandemic.

Since the first publication, seven updates have been published to ensure that the document is up-to-date with the current COVID-19 restrictions. In addition to releasing the COVID-19 Rulings, NABERS has also published a Guidance Document: *Commitment Agreements during COVID-19* to address additional concerns around meeting the requirements of NABERS Commitment Agreements.

NABERS is considering two strategies to phase-out the use of the COVID-19 Rulings when these are eventually no longer needed:

- a) We rescind the COVID-19 Rulings on a nominated date and all rating applications submitted after this date need to follow the normal NABERS Rules.
- b) We enact a transition period where Assessors may choose to follow either the COVID-19 Ruling or the normal NABERS Rules for a set period. Once the transition period ends, all rating applications submitted needs to follow the normal NABERS Rules.

This section of the paper focuses on broader questions, while Section 4 asks questions specific to the individual Rulings contained within the COVID-19 Rulings.

4.2 Focus questions

- The COVID-19 Rulings are due to expire on 28th March 2021 and NABERS is considering extending the expiry date of the COVID-19 Rulings to 31 August 2021.
 - Do you have any concerns extending the expiry date of the COVID-19 Rulings? Is extending the date to 31 August 2021 sufficient?
 - Given the unpredictable nature of the pandemic, should NABERS instead remove the expiry date of these Rulings and only rescind rulings with sufficient notice period when appropriate?
- When should NABERS consider transitioning away from the COVID-19 Rulings? Are there certain milestones that you believe should be met first? (For example, all State and Territory borders to be open for a minimum period.)

5 NABERS Ruling specific questions

5.1 Conducting site visits

5.1.1 Background

In the early stages of the COVID-19 pandemic, one of the biggest challenges faced by NABERS Assessors was the difficulty in accessing the premises in order to meet the core requirement NABERS Energy, Water and Carbon Neutral Ratings of conducting a site visit. The Rules already allowed for site visits to be conducted by another Assessor accredited in the same rating type; however, due to the unique nature of the pandemic, this option often could not resolve this issue.

NABERS developed Ruling #1 to provide Assessors with a variety of alternative methodologies to conduct a site visit, consisting of the following:

- a) Use of data from a prior site visit.
- b) Use of a non-Assessor familiar with the site to conduct the site visit.
- c) Use of conservative inputs.

The implementation of this Ruling allowed Assessors to continue the process of NABERS certification of the premises and was credited with ensuring business continuity for many Assessors during a period of economic uncertainty.

Note: For details on Ruling #1, see Section 5 of the Ruling document: *Managing Impacts of COVID-19 on NABERS Ratings*.

5.1.2 Focus questions

- If you have not been conducting site visits as per the normal requirements specified in the NABERS Rules, at what point would you feel comfortable undertaking site visits again? What factors do you take into consideration when making this decision?
- The Rules provides the option for Assessors to engage another Assessor accredited with the same rating type to undertake the site visit component on their behalf. If you have been using the Ruling #1 for premises outside of your home state instead of this option, what are the reasons for using the Ruling in lieu of another Assessor?
- When this is no longer needed, NABERS is considering rescinding Ruling #1 with no transition period. What concerns do you have with NABERS enacting this proposal?

5.2 NABERS Waste

5.2.1 Background

The impacts the pandemic has had on conducting a NABERS Waste rating did not become immediately apparent as the Waste tool is built around monitoring of waste collection and removal by the building, and was largely unaffected by social distancing and lockdown measures.

The primary impact COVID-19 on Waste rating is the requirements for conducting a waste audit. The audit consists of two requirements; the Assessor to be on-site and the audit to be conducted on a 'normal operating day', which includes a requirement for a minimum of 75 % of full-time staff to be present on the premises.

To account for these impacts, NABERS developed Ruling #2 which—

- a) lowers the 75 % full-time staff requirement to 50 %;
- b) provides greater flexibility by extending the submissions period from 120 days to 180 days;
- c) allows the use of the previous rating's audit data, provided it was conducted in the 120 day period prior to the start of the current rating period; and
- d) removes the requirement for the Assessor to be physically present on-site.

Note: For details on Ruling #2, see Section 6 of the Ruling document: *Managing Impacts of COVID-19 on NABERS Ratings*.

5.2.2 Focus questions

- If you have not been conducting waste audits in person as per the normal requirements specified in the NABERS Rules, at what point would you feel comfortable undertaking the audits in person again? What factors would you take into consideration when making this decision?
- The Rules provides the option for Assessors to engage another NABERS Waste rating-accredited Assessor to undertake the waste audit on their behalf. If you have been using the Ruling #2, what are the reasons for using the Ruling in lieu of another Assessor?

5.3 NABERS Energy & Water for Offices

5.3.1 Introduction

Apart from restrictions to undertake site visits, the low occupancy of office buildings during the COVID-19 pandemic has created further challenges in order to conduct NABERS ratings, particularly around the areas of computer counts and rated hours.

Due to the effects of COVID-19 on office occupancy patterns and servicing levels, certain requirements within the NABERS Energy & Water for Offices Rules became obstacles to conducting NABERS ratings. Ruling #3 was developed to account for the following situations:

- a) Computer counts in buildings that have low levels of occupancy.
- b) Calculating core hours where Tenant Occupancy Surveys cannot be conducted.
- c) Accounting for ad hoc changes to level of service for comfort conditions.

Note: For details on Ruling #3, see Section 7 of the Ruling document: *Managing Impacts of COVID-19 on NABERS Ratings*.

5.3.2 Focus questions

5.3.2.1 Section 7.2 Method 4 – Computer Counts where buildings have low occupancy due to COVID-19

- When this is no longer needed, NABERS is considering rescinding Section 7.2 without a transition period. Do you have any concerns with NABERS enacting this proposal?
- It is possible that the post-COVID-19 ‘new normal’ may feature greater fluctuations in building occupancy. Are the requirements for computer counts in NABERS Energy & Water for Offices Rules v4.1 sufficient to cover the changing nature of the way people might work in the long term? If not, what changes do you recommend?

5.3.2.2 Section 7.3 Method 5 – Use of Tenant Occupancy Surveys where buildings have been heavily vacated due to COVID-19

- When this is no longer needed, NABERS is considering enacting a transition period to phase-out Section 7.3. For example, allowing usage if 20% occupancy can be reached, even if occupancy patterns continue to be disrupted compared to the pre-COVID-19 period. What concerns do you have with NABERS enacting this proposal?

5.3.2.3 Section 7.4 Changes to a premises’ levels of service for comfort conditions and Owner Tenant Agreements

- When this is no longer needed, NABERS is considering enacting a transition period to phase-out Section 7.4. For example, allowing the use of data from the post-COVID-19 period to be used instead of data from the pre-COVID-19 period. What concerns do you have with NABERS enacting this proposal?
- When entering the NABERS rating on the calculator, different periods needs to be entered as separate entries. For example, 1x line for pre-COVID-19 period, 1x line for COVID-19 restricted period, 1x line for stage 2 easing of COVID-19 restrictions period etc. What concerns do you have with being required to do this?

5.4 NABERS Indoor Environment for Offices Ratings

5.4.1 Background

COVID-19 has had a variety of impacts on Indoor Environment ratings. The most obvious of which is the way Assessors conducted spot measurements of the premises. Due to government mandated lockdowns, social distancing measures and overall lower occupancy levels in offices, Assessors required additional guidance in several areas of the Indoor Environment Rules to be able to conduct a rating during this period.

Ruling #4 was implemented by NABERS and provided guidance on the following three areas:

- a) Allowance for non-Assessors to undertake spot measurements.
- b) Alternative floor selection criteria and methodology due to temporary shutdown of servicing to floors.
- c) A methodology to allow for replacement of annual temperature data that was affected by COVID-19.

Note: For details on Ruling #4, see Section 8 of the Ruling document: *Managing Impacts of COVID-*

5.4.2 Focus questions

5.4.2.1 Section 8.2 Method 6 – Use of a non-Assessor to undertake spot measurements for a site visit

- When this is no longer needed, NABERS is considering rescinding Section 8.2 with no transition period. What concerns do you have with NABERS enacting this proposal?

5.4.2.2 Section 8.3 Method 7 – Selection of alternative floors for spot measurements other than those specified by the Rules

- Are the requirements for spot measurement floor selection in NABERS Indoor Environment for Offices Rules v1.0 sufficient to cover the changing nature of the way people are working in the long term? If not, what changes do you recommend?

5.4.2.3 Section 8.4 Annual temperature data during the COVID-19 period

- When this is no longer needed, how long should the requirement be available for use? Are there any concerns with NABERS enacting a firm end to Section 8.4 with no transition period once a certain stage of easing of COVID-19 restrictions is reached?

5.5 NABERS Energy & Water for Shopping Centres Ratings

5.5.1 Introduction

Unlike offices, shopping centres generally continued to operate throughout the COVID-19 period; however, due to government mandated restrictions and social distancing measures, shopping centres and retail tenancies altered the way they operated. Therefore, alternative methods to existing requirements were needed to address these alterations.

Ruling #5 was developed by NABERS to provide guidance to two existing requirements for NABERS Energy & Water for Shopping Centre ratings, as follows:

- a) Food court seat counts, where government mandated restrictions resulted in the removal of seats.
- b) Alteration of the definition 'vacant tenancy' to exclude tenancies with existing leases that are temporarily 'vacant' due to the COVID-19 restrictions.

Note: For details on Ruling #5, see Section 9 of the Ruling document: *Managing Impacts of COVID-19 on NABERS Ratings*.

5.5.2 Focus questions

- NABERS allows Assessors to enter in periods where a cinema theatre, gymnasiums or parking lots were shut for more than four weeks. This was intended to cover periods of major refurbishments where these areas were clearly not inaccessible to the public. Should this be required due to COVID-19 social distancing measures where they are 'shut' because of little or no demand?

5.5.2.1 Section 9.2 Using previous food court seats counts

- When this is no longer required, NABERS is considering rescinding Section 9.2 with no transition period. What concerns do you have with NABERS enacting this proposal?

5.5.2.2 Section 9.3 Servicing tenancies and tenancy vacancies due to COVID-19

- When this is no longer required, NABERS is considering rescinding Section 9.3 with no transition period. What concerns do you have with NABERS enacting this proposal?

Contact us

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