

What's the difference between the Agreement to Rate and the Commitment Agreement?



The State Environmental Planning Policy (Sustainable Buildings 2022), also known as the Sustainable Buildings SEPP, will come into effect from 1 October 2023. As part of the policy, all large commercial developments will be required to commit to obtaining a minimum NABERS Energy and Water star rating.

Depending on their requirements, developers may choose to use either an Agreement to Rate or a combination of both Agreement to Rate and Commitment Agreement to meet their obligations under the Sustainable Buildings SEPP.

1.1 What is an Agreement to Rate?

An Agreement to Rate is a contract signed by a developer or owner to commit to obtaining a NABERS rating once their building becomes operational. The Agreement to Rate can be used for multiple rating types (including energy, water and embodied carbon).

The Agreement to Rate assists local councils, state authorities and policymakers to promote measurement of building operations, and in turn should address performance gaps in operational energy. It also allows developers and building owners to meet their obligations and commit to improved building performance.

The NSW Sustainable Buildings SEPP will be the first example of the Agreement to Rate in use. Due to the reduced scope of the Agreement to Rate compared to the Commitment Agreement, the contract provides a cost-effective pathway to policy compliance.

1.2 What is a Commitment Agreement?

A Commitment Agreement is a contract signed by a developer or owner to commit to design, build and commission a building to achieve a specific NABERS star rating. The Commitment Agreement can only be used for rating energy.

The Commitment Agreement requires independent modelling, estimation and review during the building's design phase to validate its proposed rating. Upon approval, developers and owners can use the Commitment Agreement to advertise their future building's projected performance.

Due to the marketing potential of a Commitment Agreement, some developers may choose to use this in conjunction with an Agreement to Rate to meet the requirements of the Sustainable Buildings SEPP.

1.3 Key difference comparison table

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	Agreement to Rate	Commitment agreement
Cost to submit contract	\$	\$\$
Design review required to verify design	No	Yes
Independent verification required before construction	No	Yes
Tool for policy makers	Yes	Yes
Simple contract for policy makers to validate sustainability targets	++	+
Marketing tool for developers and owners	No	Yes
Valid for NABERS Energy rating	Yes	Yes
Valid for NABERS Water rating	Yes	No
SB SEPP compliance pathway	Yes	Partial (energy only)
NCC Section J compliance pathway	No	Yes
Encourages future ratings	Yes	Yes
Reduces Performance Gap (the difference between predicted and actual consumption in operation)	Projected, Yes	Yes





1.4 When should I use an Agreement to Rate?

All large commercial developments (including offices over 1000m², hotels with 100+ rooms and buildings with 100 or more serviced apartments) will be required to meet a minimum NABERS Energy and Water star rating under the Sustainable Buildings SEPP. An Agreement to Rate contract supports compliance with the SB SEPP and can provide:

- + A cost-effective compliance mechanism to fulfil policy obligations
- + Efficient process with no requirement for design modelling or construction delays
- + Commitment to any rating type under one contract
- + Avoidance of fines for non-compliance
- + Increased value and reduced environmental impact upon completion and rating

Under the NSW Sustainable Buildings SEPP, the Agreement to Rate facilitates a commitment to water, energy and embodied carbon ratings under one contract.

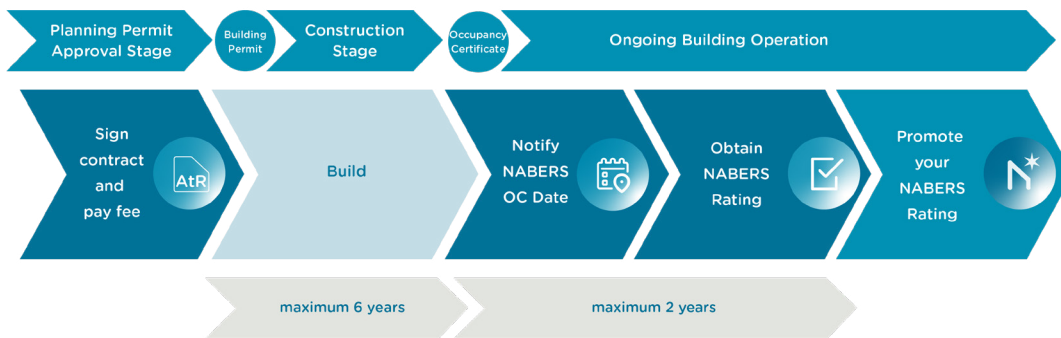
1.5 When should I use a Commitment Agreement?

The Commitment Agreement can be used to partially fulfil obligations under the Sustainable Buildings SEPP while demonstrating commitment to high-performance buildings. It can be used by developers or owners of new or refurbished apartment buildings, data centres, hotels, offices or shopping centres. Benefits of a Commitment Agreement include:

- + Marketing and advertising opportunities during construction
- + Increased likelihood of achieving desired build quality and operational performance
- + Increased likelihood to attract premium tenants
- + Enhanced corporate and market reputation
- + May help office buildings comply with the National Construction Code 2022

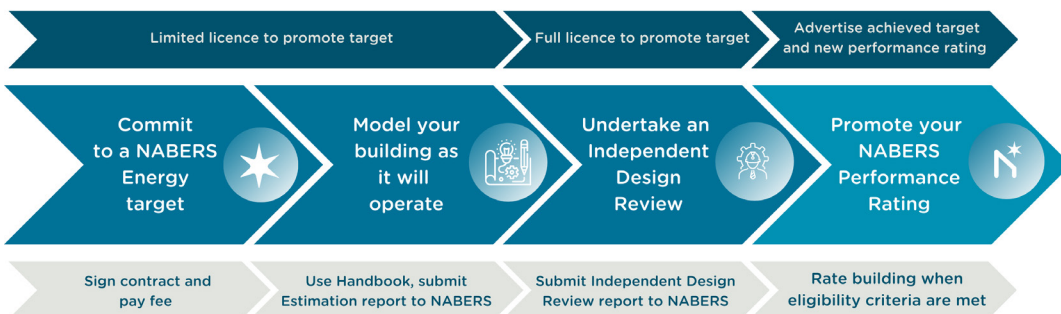
Can be used in conjunction with Agreement to Rate to fulfil SB SEPP policy obligations.

1.6 What is the Agreement to Rate process?



1. Sign the Agreement to Rate contract and pay the fee.
2. Tell NABERS when a construction certificate is granted.
3. Submit 12 months of early operational data to measure performance.
4. Arrange for an Accredited Assessor to carry out a NABERS Performance Rating (usually after 12-24 months of operation).

1.7 What is the Commitment Agreement process?



1. Sign the Agreement to Rate contract and pay the fee.
2. Design the building or space to operate at the energy performance level nominated in your Commitment Agreement.
3. Prepare the model, simulation report and documentation as detailed in the Handbook for estimating NABERS ratings.
4. Undertake and submit an Independent Design Review report to receive licence to promote your target rating.
5. Tell NABERS when a construction certificate is granted.
6. Submit 12 months of early operational data to measure performance.
7. Arrange for an Accredited Assessor to carry out a NABERS Energy Performance Rating (usually after 12-24 months of operation).