

Far North Queensland Designated Area Migration Agreement
(FNQ DAMA)

**Request for endorsement to access a Labour Agreement under the
FNQ DAMA 1.2 – Information Guide and Instructions
(in effect from 18 June 2021)**

THIS DOCUMENT IS IN THREE PARTS:

PART 1 - THE FNQ DAMA AND HOW IT WORKS

**PART 2 - INSTRUCTIONS FOR SUBMITTING A FNQ DAMA ENDORSEMENT
REQUEST**

**PART 3 - TECHNICAL AND RELEVANT MATTERS RELATING TO THE FNQ
DAMA**

YOU SHOULD REFER TO THIS DOCUMENT IN CONJUNCTION WITH:

A. THE FNQ DAMA OCCUPATION LIST

B. THE FNQ DAMA REQUEST FOR ENDORSEMENT FORM

PART 1 – THE FNQ DAMA AND HOW IT WORKS

The Cairns Chamber of Commerce (the Chamber) is the Designated Area Representative (“DAR”) for the Far North Queensland Designated Area Migration Agreement (FNQ DAMA).

You should first read and ensure you understand the information in the Cairns Chamber of Commerce [website](#) and in this document (Parts 1-3) regarding the FNQ DAMA, its purpose, how it works, and whether it meets your needs.

Note that engaging overseas workers under the FNQ DAMA is a four-stage process. Requesting endorsement from the Chamber (the DAR) is only the first stage.

By making this request you are seeking the endorsement of the DAR to be able to:

- access the **FNQ DAMA**; and
- request to enter into a Labour Agreement with the Commonwealth of Australia (**the Commonwealth**).

You can only access a Labour Agreement under the FNQ DAMA if you have first been endorsed by the DAR, to do so. You understand and accept that the DAR is under no obligation to endorse you to access a Labour Agreement.

The DAR cannot require the Commonwealth to agree to enter into a Labour Agreement with you and will not be a party to any such Labour Agreement.

Purpose of a Labour Agreement under the FNQ DAMA

A Labour Agreement under the FNQ DAMA is a legally binding agreement made between you and the Commonwealth aimed at allowing you to sponsor overseas workers under the following visa programs:

- [Temporary Skill Shortage \(TSS\) Subclass 482 visa](#); [‘TSS visa’]
- [Skilled Employer Sponsored Regional \(Provisional\) \(SESR\) Subclass 494 visa](#); [SESR visa’]
- [Employer Nomination Scheme \(ENS\) Subclass 186 visa](#) . [‘ENS visa’]

Note that accessing a Labour Agreement under the FNQ DAMA is for circumstances where:

- there is a genuine, significant demand for workers in particular occupation(s) that cannot be met from within the Australian labour market; and
- the Overseas Worker/s could not otherwise be sponsored under standard skilled visa arrangements or apply for another type of visa.

Further information regarding other visa options can be found in the [Department of Home Affairs website](#).

The FNQ DAMA is a four stage process



Stage 1 – DAR endorsement.

This is undertaken by the Cairns Chamber of Commerce as the DAR. You cannot proceed to Stage 2 unless you have DAR endorsement. To seek endorsement, complete the Request for Endorsement form referred to in Part 2 of this document, and submit it to the DAR. Endorsement involves paying an endorsement fee. Fully-documented and well-presented endorsement requests are generally finalised by the DAR within five working days. Poorly prepared or incomplete endorsement requests may take longer.

A DAR endorsement letter is valid for one year, and for one or more occupations and positions. Any associated request to the Department of Home Affairs to access a Labour Agreement under the FNQ DAMA must be submitted within the validity of the DAR endorsement letter.

Stage 2 – Requesting a Labour Agreement with the Department of Home Affairs.

If you are endorsed to access a Labour Agreement under the FNQ DAMA, you can then apply for the Labour Agreement online with the Department of Home Affairs. Instructions on how to apply for a Labour Agreement are included with the DAR endorsement letter, along with an access number. As of writing, a Labour Agreement request does not attract a fee or charge.

Requesting a Labour Agreement includes meeting mandatory legislative requirements as at the date you submit that request online. This includes evidence that you have genuinely tried to recruit from within the Australian labour market, through [prescribed Labour Market Testing \(LMT\)](#). Labour Agreement requests that do not meet the LMT requirements will not be successful.

A Labour Agreement, once signed, can be valid for up to five years, and generally specifies how many occupation/s and position/s you can nominate in each year of the agreement.

There is provision to vary and update/add to a Labour Agreement throughout its life. If this involves adding or changing occupation/ and/or/position/s and/or visa types then that will entail you seeking DAR endorsement for those additions or changes.

You will need to provide a valid DAR endorsement letter to the Department of Home Affairs when seeking additions or variations to an existing Labour Agreement.

Stage 3 – Nominating the visa applicant/s.

Once you have a Labour Agreement in place with the government, you can then nominate specific individual Overseas Workers against the occupation/s and position/s stated in the Labour Agreement, up to the cap and within the year specified in that agreement.

Nominations are lodged with the Department of Home Affairs and attract fees/charges. See the individual visa links on page 1 of this document for details.

Note that the [prescribed Labour Market Testing \(LMT\)](#) undertaken for the Labour Agreement Stage also needs to be current when you lodge an associated nomination application.

Stage 4 – Nominee/s apply for their visa.

This is the final stage when the nominated individuals apply for their visa, undergo police checks, medical checks, and other criteria specific to them.

Important concepts unique to the FNQ DAMA

Some important concepts and ways in which the FNQ DAMA process differs from standard visa pathways include:

- Stages 1 and 2 above are about the business need for the occupation/s and number of position/s and why you have not been able to fill them from the Australian labour market. Stages 1 and 2 are not about any particular individual prospective Overseas Worker/s (this occurs at Stages 3 and 4);
- Under the FNQ DAMA and associated Labour Agreement, you can seek one or more occupations and numbers of positions, allowing you to nominate workers up to the numbers and in the occupations approved in the Labour Agreement, per year of that agreement. Many businesses only need one position/occupation and that is all they apply for, although they have the option of seeking and adding occupations/positions in subsequent years during the life of their Labour Agreement (usually up to five years);
- For Skill Level 1-4 occupations in the FNQ DAMA Occupation List, a permanent residence pathway for Overseas Workers may be available through the ENS visa program. Details of this permanent visa pathway, as well as associated access to age concessions, are outlined in Item 1.8 in [Part 3](#) of this document. Note that in certain circumstances, some concessions may be available to count time on existing non-FNQ DAMA visas towards the three-year 'waiting period'.
- The FNQ DAMA includes access to numerous concessions and features that are not accessible in standard skilled migration pathways. These are designed to meet the specific needs and challenges in FNQ relating to addressing skills shortages. Technical details of these aspects are outlined in [Part 3](#) of this document.

PART 2 - INSTRUCTIONS FOR SUBMITTING A FNQ DAMA ENDORSEMENT REQUEST

Under the agreement with government, the Cairns Chamber of Commerce, in its role as the DAR, is required to consider a range of relevant matters in deciding whether to endorse your business to access a Labour Agreement under the FNQ DAMA. Those relevant matters are outlined at Part 3 of this document.

To assist the DAR in deciding whether to endorse you, you must provide the following with your request. All documents referred to below are accessible in the [Cairns Chamber of Commerce website](#).

The above information outlined below should be submitted as PDF attachments (or a single attachment - other than the Credit Card Authority form) by email to the DAR at dama@cairnschamber.com.au. The Credit Card Authority form **must** be a separate attachment on its own.

There is no need to provide any information with a Request for Endorsement or a Rollover Endorsement other than that listed below, unless requested to do so by the DAR.

INITIAL ENDORSEMENT REQUEST (NEW OR ADDITIONAL OCCUPATIONS/POSITIONS)

1. A **Credit Card Authorisation Form** for payment of the FNQ DAMA DAR endorsement fee (see below for fee schedule). Note that this fee is payable per position being sought. The Credit Card Authorisation Form must be submitted as its own separate PDF attachment – not combined with other information;
2. A completed and signed **Request for Endorsement** form;
3. A signed **Business Declaration**;
4. A **covering letter/submission** (maximum four pages) that clearly addresses the following points:
 - a. Why you are seeking endorsement to access the FNQ DAMA rather than standard visa programs/streams;
 - b. Describe why you need the overseas workers you are seeking, including reasons for the occupation type and number of positions;
 - c. For each occupation sought, why you have not been able to fill the positions from within the Australian labour market:
 - i. You should include a summary of recruitment attempts, including time period and places advertised, a description of whether any Australian citizens or permanent residents applied and if not suitable, why;
 - d. The proposed salary for the position/s and how you determined that salary;
 - i. If there are any equivalent Australian workers, you should indicate what their salary is as a comparison;
 - e. If you are seeking any concessions under the FNQ DAMA (TSMIT-salary concession, English language concession, age concession), the reasons why you need to access those concessions:
 - i. If seeking a TSMIT concession, complete and provide the **TSMIT concession summary**;
 - f. (Optional) if you have an outstanding immigration matter before the Administrative Appeals tribunal or the courts, any information about this in the context of the request for endorsement being made.
5. A **position/job description** for each occupation sought;
6. An **organisation chart** for your business showing where the position/s sought are located and who they report to:
 - a. You should indicate in the chart which or how many positions are occupied by Australian citizens/permanent residents and how many are occupied by Overseas Workers (i.e. temporary visa holders), and indicate whether the positions are full-time, part-time, or casual;
 - b. If you employ any trainees, interns, or apprentices, these should be included.

(continued next page)

7. If not in your website, 2-4 images of your business can be a useful addition. Examples:
 - a. For a restaurant, images can show the size and seating capacity;
 - b. For a farm, an aerial photo (or Google Maps image) with your property outlined can show the scale of your operations.

ROLLOVER ENDORSEMENT REQUEST (RE-ENDORSEMENT IN SUBSEQUENT YEARS)

1. A **Credit Card Authorisation Form** for payment of the FNQ DAMA DAR endorsement fee (see below for fee schedule). Note that this fee is payable per position being sought. The Credit Card Authorisation Form must be submitted as its own separate PDF attachment – not combined with other information;
2. A completed and signed **Request for Endorsement** form;
3. A signed **Business Declaration**;
4. A **covering letter/submission** (maximum two pages) that clearly addresses the following points:
 - a. Why the occupations/positions being rolled over to the subsequent year was not used and why they are still required;
 - b. Whether there has been any change in circumstances and why;
 - c. Information about any Labour Market Testing that has been undertaken since the last endorsement request.

IMPORTANT POINTS TO NOTE

You should note that the DAR is required to send **all** supporting information that is submitted with an endorsement request, to the Department of Home Affairs along with the endorsement letter.

Note that the DAR, in its absolute discretion:

- May request further evidence and information from you that it considers necessary and relevant to assess your request for endorsement; and
- May call or email you (or your registered migration agent if you have authorised one) to discuss aspects of your request for endorsement.

For more detailed information about what the DAR considers when assessing an endorsement request, and the types of additional information it may request, refer to Part 3 of this document.

For FNQ DAMA Frequently Asked Questions (FAQs), [click here](#).

DAR REQUEST FOR ENDORSEMENT FEE

The **standard endorsement** fee (per position) is payable in full at time of requesting endorsement unless the request is a **rollover endorsement** request.

The FNQ DAMA **standard endorsement** request fee (per position sought) is:

- \$770 – Cairns Chamber of Commerce members*
- \$935 – non-members

A **rollover endorsement** request relates to re-endorsement of occupations and positions for second or subsequent years of a current Labour Agreement where all of the following apply:

- the previous endorsement letter is less than 15 months old;
- no additional concessions are sought for the occupations and positions;
- there are no substantial changes to the business structure, operations, or legislation;
- the previously endorsed position/s have not yet been used to nominate an overseas worker;
- the occupation/s and position/s are not associated with a declined Labour Agreement request.

FNQ DAMA **rollover endorsement** request fee (per position sought) is:

- \$250 – Cairns Chamber of Commerce members*
- \$350 – non-members

Note that additional/new occupations/positions (at the standard fee) can be combined with rollover occupations/positions (at reduced rollover fee) in a single endorsement request.

**Membership must be current and be annual membership or held for at least 12 months as at date of seeking endorsement.*

The Cairns Chamber of Commerce has zero tolerance for false or misleading information, statements, or documents submitted with FNQ DAMA endorsement requests, whether from the sponsoring business or their agent.

PART 3 - TECHNICAL AND RELEVANT MATTERS RELATING TO THE FNQ DAMA

This part includes technical and relevant matters under the FNQ DAMA, and what you may be asked to demonstrate as part of a request for.

DO NOT provide any of the following additional information with your endorsement request unless asked to do so.

Throughout this Attachment:

- “TSS visa” means the Subclass 482 (Temporary Skill Shortage) visa;
- “SESR visa” means the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and
- “ENS visa” means the Subclass 186 (Employer Nomination Scheme) visa.

1.1 Designated Area

The FNQ DAMA Designated Area includes Australian postcodes 4852, 4854-4856, 4858-4861, 4865, 4868-4875, 4877-4883, 4885-4886 and 4895, within the Cairns, Douglas, Mareeba, Tablelands, Cook, or Cassowary Coast local government areas, or the Torres Shire Council local government area, or the Weipa Town Authority area.

Note that while most occupations are accessible throughout the Designated Area, a small number of occupations are excluded from postcodes 4868, 4869, 4870 and 4878 (Cairns metropolitan area).

The DAR will consider:

Whether your business is operating within the Designated Area (or for ‘Limited’ occupations as indicated in the Occupation List, within the limited Designated Area), and has been doing so for at least 12 months unless exceptional circumstances exist. You may be asked to provide:

- *Evidence that the business is operating within the Designated Area for a period of at least twelve months (unless exceptional circumstances exist).*

The DAR will consider:

Whether the position/s to be filled (as opposed to the business) will be located in the Designated Area (or the ‘Limited’ designated Area if applicable).

The Overseas Worker may be able to travel outside the area for work-related reasons for short periods of time where this is consistent with the declared duties of the position. Note that you must seek the agreement of the Department of Home Affairs if the Overseas Worker will be outside of area for more than three out of twelve months.

1.2 Occupations

Occupations accessible under the FNQ DAMA under the agreement in place as of XX June 2021, are those in the FNQ DAMA Occupation List in this link.

Some occupations in the combined Skilled Occupation List are subject to caveats. The FNQ DAMA includes the following provision removing all caveats from occupations in the FNQ DAMA Occupation List.

'Caveats not to apply'

None of the matters specified in an instrument made under sub regulation 2.72(9) of the Migration Regulations, for the purpose of determining whether an occupation applies to a nominee, (called 'caveats' in Departmental policy instructions) applies to any occupation specified in this Agreement.

1.3 Genuine vacancy

The DAR will consider:

Whether the position/s you are seeking to fill are genuine and there are genuine vacancies. You may be asked to provide:

- *Evidence of trading hours, business expansion and business structure;*
- *Position descriptions;*
- *Sample of employment contracts.*

1.4 Labour market testing (LMT)

The DAR will consider:

Whether genuine attempts have been made to fill the position/s from the Australian labour market. You may be asked to provide:

- *Evidence of advertising the position/s within Australia, and the outcome of those attempts;*
- *A description of the history of attempts to recruit to the position/s.*

Important Note: While there is no legislative requirement to demonstrate labour market testing (LMT) for endorsement stage, the FNQ DAMA (and other DAMAs) states that:

'A Third Party seeking to nominate an Overseas Workers under a Labour Agreement in accordance with this DAMA is required to provide evidence that they cannot find a suitable Australian worker. Before an overseas worker can be nominated, a Third Party must test the local labour market by advertising the vacant position in Australia. In accordance with the Migration Legislation, evidence of LMT is required when applying for a Labour Agreement and at the nomination stage.

*LMT requirements includes the duration, content and eligible mediums of advertising. A Third Party must provide copies of advertisements that meet the Department of Home Affairs' LMT requirements, including that the nominated position **must** be advertised on the Department of Education, Skills and Employment's Jobactive Website.*

As the LMT requirements are specified in the Migration Legislation, they are not flexible or negotiable. A Third Party will not be able to enter into a Labour Agreement in accordance with this DAMA if the LMT are not met.'

See also the [Department of Home Affairs website relating to LMT](#). Note that LMT must be satisfied as at date of submitting a Labour Agreement request, and an associated nomination under the Labour Agreement.

1.5 Salary and conditions

The DAR will consider:

Whether the proposed salary for the position/s is reasonable and justified for the regional location, taking into account the market salary rate for the occupation, and that the terms of conditions of employment must be no less than would be provided to an Australian citizen or permanent resident in an equivalent position. You may be asked to provide:

- *How the proposed salary for the position/s was determined;*
- *Copy of or information about relevant awards or Enterprise Agreements;*
- *Evidence of the salary paid to Australian citizens or permanent residents in equivalent position/s in the business.*

See also the [Department of Home Affairs website relating to Average Market Salary Rate \(AMSR\)](#) determination, relevant to Labour Agreement and nomination stages.

1.6 Good Corporate Citizen

The DAR will consider:

Whether you have been actively operating for at least twelve months and are financially viable. You may be asked to provide business documents, including for associated entities (if applicable) such as:

- *your Business Registration Certificate;*
- *Australian Business Number (ABN);*
- *Australian Company Number (ACN) (if applicable);*
- *Trust Deed (if applicable); and*
- *recent financial accounts or BAS statements; and*
- *a letter of support from a registered Chartered Accountant or a Certified Practising Accountant confirming that you have been actively operating for at least twelve months and have the financial capacity to meet the migration obligations for the workers you wish to sponsor, for the proposed period that they will be employed by you. The letter must include the key financial data i.e. your turnover, net assets and profit/loss for the most recent financial year.*

If you have been subject to any relevant investigations or audits, resulting in an adverse finding to the business or any associated entities (including previously associated entities) in the last five years by bodies such as:

- *the Office of the Fair Work Ombudsman, or former authority with this function, or relevant State or Territory government authority in relation to compliance with workplace relations provisions;*
- *the relevant State or Territory government authority in relation to compliance with occupational health and safety provisions; and*
- *The Department of Home Affairs (Home Affairs) in relation to compliance with migration provisions;*

then you will need to provide information about any such investigations or audits with this endorsement request. Any other relevant adverse information should also be declared.

1.7 English language concessions

Businesses may seek endorsement from the Chamber for the following English language concession to apply to a concessional Occupation. See the FNQ DAMA Occupation List to ascertain which occupations are 'concessional Occupations' with access to an English language concession.

The English language concession available in the FNQ DAMA for concessional Occupations is as follows:

- The English language level may be reduced from the standard requirement to an *average* of 5 across the four IELTS components (reading, writing, speaking and listening) with speaking and listening components no less than 4.

An acceptable level of English language level may also be demonstrated by:

- the applicant being a native English speaker holding a passport from one of the following countries: the United Kingdom, the Republic of Ireland, Canada, New Zealand or the United States of America;
- evidence that the applicant has completed at least five years of continuous full-time study in a secondary or higher education institution where instruction was conducted in English.

The DAR will consider:

Where you are requesting an English language concession to the standard non-Labour Agreement visa requirements, whether the concession is evidence-based and reasonable. You may be asked to provide:

- *evidence that you have considered workplace health and safety matters impacted by a lower level of English and how you plan to address them;*
- *information about the impact a lower English level may have on:*
 - *the Overseas Worker/s' ability to conduct skills transfer with Australian employees;*
 - *the Overseas Worker/s' ability to settle in the community.*

1.8 Temporary Skilled Migration Income Threshold (TSMIT) concessions ('salary' concessions)

TSMIT is currently set at AUD53,900.

Businesses may seek endorsement from the Chamber for access to a TSMIT concession to be applied to one or more concessional Occupations being sought. See the FNQ DAMA Occupation List to ascertain which occupations are 'concessional Occupations' with access to a TSMIT concession.

Where you are requesting a TSMIT concession to the standard non-Labour Agreement visa requirements, the concession should be evidence-based and reasonable. There are two types of TSMIT concessions that may apply, Type 1 and Type 2.

In accordance with the applicable concession type set out below, a nominating business must provide the Overseas Worker with an amount of Annual Earnings which is equal to or greater than:

- the Annual Market Salary Rate, and
- Reduced TSMIT (for TSMIT concession type 1) or TSMIT (for TSMIT concession type 2).

'Reduced TSMIT' means 90% of TSMIT.

TSMIT Concession types

	Type 1	Type 2
Monetary Earnings	At least Reduced TSMIT	At least Reduced TSMIT
Non-monetary earnings (Food and Board)		No more than 10% of TSMIT
Total Annual Earnings	At least Reduced TSMIT	At least TSMIT

Concession Type 1: Reduced TSMIT, and Earnings to include Guaranteed Overtime and Monetary Benefits

'Reduced TSMIT' applies.

'Earnings' has the same meaning as in the Migration Regulations except that it also includes:

Guaranteed overtime where:

- The guaranteed overtime is consistent with standard industry practice within the sector;
- There are equivalent Australians performing equivalent work in the Third Party's workplace at the same location and whose arrangements have been guaranteed in an industrial arrangement for those workers; and
- At the time of nomination the Third Party provides evidence that the hours are guaranteed within the employment contract for the Overseas Worker, and confirms the hours are consistent with the National Employment Standards; and
- Application of the concession is subject to the Earnings being in line with applicable Industrial Awards or Enterprise Agreements and not below levels for Australian employees in comparable roles; and

When calculating an Overseas Worker's Annual Earnings, the value of monetary earnings cannot be less than Reduced TSMIT.

Concession Type 2: TSMIT, and Earnings to include Guaranteed Overtime and certain Non-Monetary and Monetary Benefits

'Earnings' has the same meaning as in the *Migration Regulations* except that it also includes:

1. Guaranteed overtime where:

- The guaranteed overtime is consistent with standard industry practice within the sector;
- There are equivalent Australians performing equivalent work in the Third Party's workplace at the same location and whose arrangements have been guaranteed in an industrial arrangement for those workers; and
- At the time of nomination the Third Party provides evidence that the hours are guaranteed within the employment contract for the Overseas Worker, and confirms the hours are consistent with the *National Employment Standards*; and
- Application of the concession is subject to the Earnings being in line with applicable Industrial Awards or Enterprise Agreements and not below levels for Australian employees in comparable roles; and

2. Monetary and non-monetary benefits (food and board), where:

- The benefits support the living costs of the Overseas Worker;
- The Overseas Worker would have incurred that cost had it not been provided by the Third Party;

- The benefits are quantifiable;
- The benefits are consistent with the terms and conditions provided to existing Australians employed in a similar position;
- The benefits are guaranteed in the employment contract; and
- The benefits exclude contingent payments such as overtime (other than guaranteed overtime) bonuses and commissions.

When calculating an Overseas Worker's Annual Earnings, the value of monetary earnings cannot be less than Reduced TSMIT. The value of non-monetary earnings (food and board) cannot be more than 10% of TSMIT.

The DAR will consider:

Where you are requesting one of the TSMIT concessions, whether the concession is evidence-based and reasonable taking into account all the above factors. You may be asked to provide evidence to support your request for the concession, as well as information regarding local living costs in the context of the Overseas Worker/s' ability to settle in the community.

1.9 Subclass 494 Skilled Employer Sponsored Regional (Provisional) visa – age concession

An Overseas Worker may be nominated for a SESR visa only if they have not turned **48** or **53** years of age at the time of the SESR nomination, (depending on the specified age concession available for each Occupation as indicated in the FNQ DAMA Occupation List for SESR '494').

1.10 Permanent residence pathway and age concessions

A permanent residence pathway for Overseas Workers may be available through the ENS visa program. To determine which occupations have access to this pathway, and to an associated age concession, see the FNQ DAMA Occupation List.

The following conditions will ordinarily be included in a Labour Agreement and will apply to any nomination for an ENS visa (in addition to the ENS requirements outlined in the Migration Legislation). The DAR will also take this information into account when assessing any Request for Endorsement for an ENS visa.

- a. The Overseas Worker, at the time of an application for approval of the ENS nomination ('the ENS nomination'), must hold a Subclass 457 visa or TSS visa; and
- b. The ENS nomination identifies an Occupation that was either:
 - the subject of the most recently approved nomination (in the case of an Overseas Worker who is a Subclass 457 visa holder), or
 - the subject of the most recently approved visa (in the case of an Overseas Worker who is a TSS visa holder); and
- c. The Overseas Worker has been employed on a full-time basis for a period of at least 3 years before the ENS nomination is made, in the ENS nominated occupation or an Occupation in the same ANZSCO 4 digit level, being an occupation in the FNQ DAMA Occupation List that is eligible for a permanent visa pathway; and
- d. For the whole time that the Overseas Worker was employed in accordance with paragraph (c):
 - he or she must have held a Subclass 457 or TSS visa granted; and
 - he or she must have worked in the FNQ DAMA Designated Area; and
- e. An Overseas Worker may be nominated for an ENS 186 visa only if they have not turned **50** or **55** years of age at the time of the ENS nomination, (depending on the specified age

concession available for each Occupation as indicated in the FNQ DAMA Occupation List for ENS '186'); and

- f. The Overseas Worker identified in the ENS nomination will be employed on a full-time basis in the position for at least 2 years; and
- g. The terms and conditions of employment of the Overseas Worker will not include an express exclusion of the possibility of extending the period of employment.

In assessing any Request for Endorsement to access a Labour Agreement under the FNQ DAMA for a permanent visa, the DAR will consider all of the above matters.

1.11 Equal pay and conditions

The DAR will consider:

Whether the proposed terms and conditions of employment of the Overseas Worker(s) will be no less favourable than what would be provided to an Australian performing equivalent work in the same workplace. If you do not already employ someone in the same position you may be asked to provide evidence of the market salary based on:

- *pay rates from applicable enterprise agreements in the local region;*
- *applicable industry awards;*
- *data from reputable industry remuneration surveys (usually conducted by peak industry bodies or professional associations);*
- *Australian Bureau of Statistics earnings data; and*
- *Job vacancy advertisements.*

Whether the salary, as well as being equivalent to or higher than the base rate of pay (usually based on a 38 hour week unless varied by an award), is also equal to or higher than the Temporary Skilled Migration Income Threshold (TSMIT), unless a concession has been negotiated (see Item 1.7 above). The TSMIT is currently \$53,900 per annum.

Whether overseas workers will be engaged in accordance with applicable Australian workplace laws.

Whether the overseas worker(s) will be employed on a full-time basis as a direct employee and must be paid at least fortnightly. You may be asked to provide:

- *Copy of proposed business employment contract;*
- *Copy of Enterprise or Workplace Agreement/s (if applicable).*

1.12 Skills, qualifications, experience, employment background, and skills assessments

The DAR will consider:

Whether you acknowledge that Overseas Workers sponsored under the FNQ DAMA in the occupation/s sought must satisfy the minimum skills, qualifications, experience, and employment background requirements as outlined below in respect of the relevant occupations in the FNQ DAMA Occupation List, and where applicable, that a skills assessment is required.

The following skills, qualifications, experience* and employment background requirements apply to the occupations listed in the FNQ DAMA Occupation List in relation to a TSS visa, SESR visa and where eligible under the permanent residence pathway, ENS visa.

***Work experience** means:

- may be full-time or part-time pro-rata; and
- must be undertaken in the last five years; and
- can be served concurrently with any work experience used to substitute for formal qualifications as per ANZSCO requirements, provided the work experience was at the same skill level.

Group 1

Occupations on the combined list of eligible skilled occupations (Skilled Occupation List)(SOL)

For the Occupations in FNQ DAMA Occupation List **Group 1**, which are on the eligible lists of skilled occupations (the Short-term Skilled Occupation List (STSOL), Medium and Long-term Strategic Skills List (MLTSSL) or Regional Occupation List (ROL)), any nomination for these occupations or any application for a TSS visa, SESR visa or ENS visa connected with these occupations must satisfy the skills, qualifications, experience and employment background required under the standard TSS visa or ENS visa programs.

All occupations eligible for the SESR visa program require a skills assessment unless exempt under a labour agreement. For occupations in Group 1, a skills assessment will only be required for the SESR visa program where it would be required for a nominated occupation under the TSS visa program, as specified in the relevant legislative instrument.

- Meet the skill level as defined in ANZSCO; **and**
- Have at least 2 years (35 hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **and**
- A skills assessment is only required where the applicant is part of a class of persons specified in the [legislative instrument](#) made under paragraph 1240(3)(g) of Schedule 1 to the Migration Regulations 1994.

Group 2

Specified Skill Level 2 and 3 occupations on the Skilled Occupation List (SOL)

For the Occupations in FNQ DAMA Occupation List **Group 2**, which are on the eligible lists of skilled occupations, any nomination for these Occupations or any application for a TSS visa, SESR visa or ENS visa connected with these Occupations must satisfy the following skills, qualifications, experience and employment background requirements.

- Meet the skill level as defined in ANZSCO; **and**
- Have at least one and a half years (20 hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **or**
- Have at least one year (35 hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **and**

- A skills assessment is only required where the applicant is part of a class of persons specified in the [legislative instrument](#) made under paragraph 1240(3)(g) of Schedule 1 to the Migration Regulations 1994.

General information regarding Groups 3-8

For the Occupations *specified* in **Groups 3-8 in the FNQ DAMA Occupation List**, which are not on the combined eligible list of skilled occupations referred to in Groups 1-2, the following skills, qualifications, experience and employment background criteria will be included in the Labour Agreements associated with the FNQ DAMA.

Qualifications are to be assessed by the relevant Skills Assessing Authority (as specified in the Labour Agreement) as being at least equivalent to the relevant Australian Qualifications Framework (AQF) qualification detailed for the relevant Groups below, in order to assist the Minister's decision as to whether the visa applicant has the necessary qualifications for the position.

A skills assessment is required for applications lodged for the occupations listed in **Groups 3-8**. The skills assessment must be conducted by an independent Skills Assessing Authority (as specified in the Labour Agreement). Any skills assessment must be certified as being in accordance with the arrangements agreed to in writing with the Commonwealth prior to the first Labour Agreement being entered into.

Group 3

Non-ANZSCO Skill Level 1 occupations

For the Occupations in FNQ DAMA Occupation List **Group 3**, the visa applicant must:

- Have at least a relevant bachelor degree or higher qualification; **and**
- At least one and a half years (20 plus hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **and**
- the visa applicant must undergo a skills assessment by the relevant Skills Assessing Authority (as specified in the Labour Agreement).

Group 4

Non-ANZSCO Skill Level 3 occupations

For the Occupations in FNQ DAMA Occupation List **Group 4**, the visa applicant must:

- Have at least a relevant AQF or equivalent Certificate IV; **and**
- At least one year (20 plus hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **and**
- the visa applicant must undergo a skills assessment by the relevant Skills Assessing Authority (as specified in the Labour Agreement).

Group 5

Non-ANZSCO Skill Level 4 occupations

For the Occupations in FNQ DAMA Occupation List **Group 5**, the visa applicant must:

- Have at least a relevant AQF or equivalent Certificate III with at least one year (20 plus hours per week) relevant work experience applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **or**
- Have at least two years (35 hours per week) relevant work experience applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **and**
- the visa applicant must undergo a skills assessment by the relevant Skills Assessing Authority (as specified in the Labour Agreement).

Group 6

Specified ANZSCO Skill Level 3 and 4 occupations

For the Occupations in FNQ DAMA Occupation List **Group 6**, the visa applicant must:

- Have at least a relevant AQF Certificate III **or** equivalent **or** higher level qualification; **and**
- At least one year (20 plus hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **and**
- the visa applicant must undergo a skills assessment by the relevant Skills Assessing Authority (as specified in the Labour Agreement).

Group 7

General ANZSCO Skill Level 4 occupations

For the Occupations in FNQ DAMA Occupation List **Group 7**, the visa applicant must:

- Have at least a relevant AQF or equivalent Certificate II with at least one and a half years (20 plus hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **or**
- Have at least a relevant AQF or equivalent Certificate III with at least one year (20 plus hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **or**
- Have at least two years (35 hours per week) relevant work experience if applying for a TSS or SESR visa or 3 years full-time work experience if applying for an ENS visa; **and**
- the visa applicant must undergo a skills assessment by the relevant Skills Assessing Authority (as specified in the Labour Agreement).

Group 8

General ANZSCO Skill Level 5 occupations

For the Occupations in FNQ DAMA Occupation List **Group 8**, the visa applicant must:

- Have at least a relevant AQF or equivalent Certificate I; **or**
- Have at least one year (35 hours per week) relevant work experience if applying for a TSS or SESR visa; **and**
- the visa applicant must undergo a skills assessment by the relevant Skills Assessing Authority (as specified in the Labour Agreement).

1.13 Skill assessments

As indicated in Item 1.11, for the TSS visa, the SESR visa, and the ENS visa, a skills assessment is mandatory at nomination stage for Groups 3-7 but for Groups 1-2 a skills assessment is only required in certain circumstances (see [legislative instrument](#)) or if asked for by the Department of Home Affairs.

Details of the skills assessments required for occupations approved in your Labour Agreement will be specified in that agreement in line with the above.

To find out which is the skills assessing authority for each occupation, refer to the relevant skills assessing authority listed in the FNQ DAMA Occupation List. For Groups 1-2 (where a skills assessment is required), you may also use the search function and links at the bottom of [this page of the Department of Home Affairs website](#).

For occupations for which VETASSESS is the skills assessing authority, [click here](#) for the VETASSESS brochure.

1.14 Settlement information

The DAR will consider:

Whether you agree to undertake to provide the overseas worker with settlement information:

- *prior to you engaging them, or*
- *if they are already working for you, prior to them lodging their TSS visa or SESR visa application, unless they have been living and working in the area for at least 12 months prior to them lodging their visa application.*

You can obtain a settlement information kit from the Cairns Chamber of Commerce.

1.15 Sponsorship Obligations

The DAR will consider:

Whether you acknowledge that you have read and understood your sponsorship obligations should the Department of Home Affairs enter into a Labour Agreement with you.

The Department of Home Affairs website has detailed information about [sponsorship obligations](#).

For further information, see the FAQs or contact the DAR at dama@cairnschamber.com.au

FNQ DAMA Request for Endorsement Information Sheet - Version 7.0 (11 August 2021)