

# Request for endorsement to access a labour agreement under the FNQ DAMA

## Important Information

By making this request to the Cairns Chamber of Commerce you are seeking the endorsement of the Cairns Chamber of Commerce to be able to:

- access the Far North Queensland Designated Area Migration Agreement (**FNQ DAMA**); and
- request to enter into a Labour Agreement with the Commonwealth of Australia (**the Commonwealth**).

The Cairns Chamber of Commerce 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.

You understand and accept that the Cairns Chamber of Commerce is under no obligation to endorse you for a Labour Agreement.

## 1. Applying for a Labour Agreement

1.1 A Labour Agreement is a legally binding agreement that will be made between you and the Commonwealth to allow you to sponsor overseas workers under the Subclass 482 visa program in circumstances where there is a genuine, significant demand for workers in a particular occupation(s) that cannot be met from within the Australian labour market, and that overseas workers could not otherwise be sponsored under the standard Subclass 482 visa arrangements or apply for another type of visa.

1.2 Further information regarding other visa options can be found at <https://www.homeaffairs.gov.au>.

## 2. What you will need to demonstrate

In order to request endorsement by the Cairns Chamber of Commerce to access the FNQ DAMA you will need to complete the attached request form and provide the following information:

### 2.1 Genuine vacancy

- A. Evidence that the position is genuine and there is a genuine vacancy. You will need to provide:
- An organisation chart
  - Evidence of trading hours, business expansion and business structure
  - Position description
  - Sample of employment contract
  - Copy of or information about relevant awards or Enterprise Agreement
  - Declaration and information provided in endorsement application form regarding annual earnings

### 2.2 Labour market

- A. Evidence the Labour Market Testing (LMT) has been completed in accordance with requirements. You will need to provide:
- Copies of LMT that meet the duration content and method requirement
  - Annual Market Salary Rate (AMSR)
  - Local employment is within designated area

### 2.3 Good Corporate Citizen

- A. Evidence that you have been actively operating for at least twelve months and are financially viable. You will need 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.
- B. A statement confirming whether there have been 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.

Information about any such investigations or audits will need to be provided with this request. Any other relevant adverse information should also be declared.

## 2.4 Valid need for overseas workers

- A. A Statement regarding the number of overseas workers you will need, the roles they will fill and whether you are requesting any concessions to the standard Subclass 482 visa requirements. The available concessions are:

- **English:** 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 4.0 and no minimum core for the reading and writing components (unless registration or licensing requires a higher level of English). There are some DAMA occupations for which an English language concession is not available.

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; or
- **Minimum income:** Where employers are able to provide a strong business case a concession to the TSMIT may apply. Following are the four (4) TSMIT concession that may apply:
  - ✓ **Concession Option Type 1 (up to 10% concession to TSMIT)**  
Where TSMIT is equal to or greater than \$53,900, the base rate of pay must be equal to or greater than 90 per cent of TSMIT; or
  - ✓ **Concession Type 2 (up to 10% concession to TSMIT and the inclusion of non-monetary earnings (other))**  
Where TSMIT is equal to or greater than \$53,900, the base rate of pay may be equal to or greater than 90 per cent of TSMIT; **and** these earnings may include 'non-monetary earnings (other)' capped at \$4,851. Non-monetary earnings (other) refer to benefits other than food and board (e.g. phone vehicle, flights)

- ✓ **Concession Option Type 3 (up to 10% concession to TSMIT and the inclusion of non-monetary earnings (food and board))**  
Where TSMIT is equal to or greater than \$53,900, the base rate of pay may be equal to or greater than 90 per cent of TSMIT; **and** these earnings may include 'non-monetary earnings (food and board)' capped at \$4,851. Non-monetary earnings (food and board) refer to accommodation and meals. These cannot exceed published homestay accommodation rates (<https://eqi.com.au/study-options/fees>)
- ✓ **Concession Option Type 4 (up to 10% concession to TSMIT and the inclusion of non-monetary earnings (all))**  
Where TSMIT is equal to or greater than \$53,900, the base rate of pay may be equal to or greater than 90 per cent of TSMIT; **and** these earnings may include 'non-monetary earnings (other) and 'non-monetary earnings (food and board)' capped at \$4,851. Non-monetary earnings (food and board) benefits cannot exceed published homestay accommodation rates (<https://eqi.com.au/study-options/fees>)

Employers seeking access to a TSMIT concession will need to provide evidence that the salary and employment conditions being offered to an overseas worker are in line market rates in Queensland.

The TSMIT concession may not be available for all occupations included in the DAMA.

**Read more about occupations and concessions in Occupations and concessions relating to the Far North Queensland Designated Area Migration Agreement.**

- B. Evidence that the recruitment of overseas workers is only to supplement the Australian workforce and will not undermine employment and training opportunities for Australians. You will need to complete the domestic recruitment summary table showing that:
- You have made genuine efforts to recruit domestic workers in the nominated occupation and location over the past six months. This information should include:
    - ✓ the types of advertising or recruitment efforts you have made in the last four months with respect to the relevant occupations;
    - ✓ the locations and duration (including start and end dates) where those advertising or recruitment activities took place;
    - ✓ the number of applications received;
    - ✓ the number of applicants hired; and
    - ✓ The general reasons why the other candidates were unsuccessful.

Recruitment activities undertaken must meet Department of Home Affairs Labour Market Testing (LMT) requirements as these apply to the subclass 482 visa.

- You should also provide:
  - ✓ details of any redundancies or retrenchments that have occurred in the last six months including any associated (including previously associated) entities for roles in the nominated occupation or similar occupations;
  - ✓ details regarding how you will make ongoing efforts to reduce your reliance on overseas workers; and
  - ✓ Details of your current workforce including the number of Australian citizens / permanent residents, Subclass 482 visa holders and other temporary visa holders (including Subclass 457 visa holders).
  - ✓ Annual Market Salary Rate (AMSR)
  - ✓ Local employment is within designated area

## 2.5 Equal pay and conditions

- A. Confirmation that 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 your workplace. If you do not already employ someone in the same position you will need 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.

Such evidence is also required by the Department of Home Affairs at the time of nomination.

- B. 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) must also be equal to or higher than the Temporary Skilled Migration Income Threshold (TSMIT) unless a concession has been negotiated (see 2.3 above). The TSMIT is currently \$53,900 per annum.
- C. Overseas workers must be engaged in accordance with applicable Australian workplace laws.
- D. Additionally, the overseas worker(s) must be employed on a full-time basis as a direct employee and must be paid at least fortnightly.
- E. The position to be filled must also be located in the Designated Area. 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. You must seek the agreement of this Department if the overseas worker will be outside of area for more than three out of twelve months.

## 2.6 Skills and skills assessments

- A. You acknowledge that overseas workers sponsored under the DAMA must satisfy minimum skill requirements as prescribed by Australian and New Zealand Standard Classification of Occupations (ANZSCO) for the occupation, or skill requirements outlined. Please note that the minimum qualifications and experience required under the DAMA may sometimes be higher than minimum levels specified in ANZSCO for the occupation.
- B. You must also provide a statutory declaration stating:
  - you or a member of your staff has interviewed or will interview the applicant;
  - you or a member of your staff has reviewed and confirmed, or will review and confirm, the applicant's experience and references;
  - you are satisfied, or will be satisfied, that the applicant has the skills and experience for the role; and
  - if a licence / registration is required for the applicant to work in the occupation in Queensland, you undertake to ensure that the overseas employee will gain this licence / registration at the earliest possible time and before they commence employment in Queensland. Overseas workers must commence employment within 90 days of their arrival in Australia on the Subclass 482 visa or if they are already in Australia, within 90 days of the Subclass 482 visa approval.

## 2.7 Settlement information

- F. You must 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 Subclass 482 visa application, unless they have been living and working in area for at least 12 months prior to them lodging their visa application.

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

## 2.8 Sponsorship Obligations

- G. You acknowledge you have read and understood your sponsorship obligations should Home Affairs enter into a Labour Agreement with you. Details can be found at: <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/existing-sponsors>.

1. Your details						
Business name / entity name						
Trading name (if applicable)						
Type of entity	Company	Y / N	Sole trader	Y / N	Partnership	Y / N
	Trust	Y / N	Other (please specify)			
ABN						
ACN						
Business address (head office) – if applicable						
Contact address						
Postal address						
Contact person in business						
Contact person's email						
Contact person's telephone						
If a company, name of each director						
Name of trust / trustee (if applicable)						
Nature of employer's operations (for example, Hospitality, Construction, Retail)						
Period of time you have been operating in the Northern Territory						
Do you already hold a Subclass 457 or Subclass 482 Standard Business Sponsorship approval? If yes, please provide a copy of the SBS approval letter	Yes / No					

2. Representative contact details						
2.1 If you have been assisted by a Migration Agent in preparing this request, you must complete this section. Otherwise leave blank.						
Name of registered migration agent						
Migration agency name						
Migration agent registration number (MARN)						
Address						
Telephone						
Facsimile number						
Email						
3. Occupations, numbers and concessions						
3.1 Please set out how many overseas workers you would like to be able to sponsor under the DAMA in the next 12 months and what roles they would work in.						
Occupation	ANZSCO code	Maximum number of nominations in Year one (1)	Concession to ANZSCO tasks applicable	Concession to TSMIT sought No/Type 1 / 2 / 3 / 4	Concession to English sought	
3.2 Please outline your current workforce profile, including any overseas workers already employed under the Subclass 457 or Subclass 482 Standard Business Sponsorship program and any temporary overseas workers (for example, Working Holiday Makers, Student visa holders with work rights, NZ nationals on a Subclass 444 visa etc.) and how you expect that profile might look at the end of the first year of your Labour Agreement.						
Year	Australians (citizens and permanent residents)	Subclass 482 visa holders	Other temporary visa holders (457 etc.)	Total workforce		
Current						
End of Year 1 of the Labour Agreement						
<b>Note:</b> Employers can use the Visa Entitlement Verification Online tool (VEVO) to check the current visa status of their employees at: <a href="https://www.homeaffairs.gov.au/Busi/visas-and-migration/visa-entitlement-verification-online-(vevo)">https://www.homeaffairs.gov.au/Busi/visas-and-migration/visa-entitlement-verification-online-(vevo)</a>						

#### 4. Conditions of endorsement and other matters

- 4.1 **You understand that it is a criminal offence in Queensland to make a false or misleading statement to an official.**
- 4.2 You understand and accept that any endorsement by the Cairns Chamber of Commerce is only an endorsement to make a request to Home Affairs for a Labour Agreement under the DAMA and is not an endorsement by Cairns Chamber of Commerce of you or any business or activity you carry on in any other respect, or of the individuals you apply to sponsor on a Subclass 482 visa under a Labour Agreement.
- 4.3 You understand and accept that endorsement by Cairns Chamber of Commerce is discretionary and may be revoked in the event that Cairns Chamber of Commerce (in its absolute discretion) is no longer satisfied that you should be able to access overseas workers under the FNQ DAMA.
- 4.4 Revocation of endorsement will be notified to Home Affairs and you accept that Cairns Chamber of Commerce will not be liable to compensate you for any costs, loss or damage that may arise from such revocation.
- 4.5 You warrant that the information referred to in this request and any attachments:
- (a) is true and correct, and
  - (b) is complete and is not misleading in any respect, and
  - (c) You acknowledge that this information has been relied on by Cairns Chamber of Commerce in considering this request.
- 4.6 Where a migration agent has been appointed to represent the business, you acknowledge that the application, including supporting documents have been provided with your full knowledge and consent.
- 4.7 You will notify Cairns Chamber of Commerce as soon as you become aware that any information or documents provided with this request have changed or are no longer true and correct. You acknowledge that this obligation applies until the expiry of any Labour Agreement entered into by you under the DAMA.
- 4.8 This request and any endorsement does not:
- (a) constitute a partnership or joint venture between the parties; or
  - (b) Except as expressly provided, make a party an agent of another party for any purpose.
- 4.9 If Cairns Chamber of Commerce must fulfil an obligation to Home Affairs and Cairns Chamber of Commerce is dependent on you to be able to do so, then you must do each thing reasonably within your power to assist Cairns Chamber of Commerce in the performance of that obligation.
- 4.10 If the employer is constituted by more than one legal entity (such as a partnership or an unincorporated association), each of those legal entities will be jointly and severally liable for the performance of any conditions arising as a result of the endorsement.
- 4.11 You agree to provide any and all information required by Cairns Chamber of Commerce to fulfil its obligations under the DAMA (including but not limited to, any updated information regarding the business, its workforce and evidence of its ongoing compliance with the obligations under the Labour Agreement) within 28 days of such a request being made.
- 4.12 You acknowledge that Cairns Chamber of Commerce may be required, from time to time, to provide information that you have included in this request or pursuant to clause 5.10, in part or entirety, to Home Affairs and you consent to this disclosure of information.
- 4.13 You acknowledge that you have read and understood the attached information referred to in this document, including a copy of the proforma Labour Agreement from Home Affairs and have sought independent advice regarding the contents and your ability to meet the requirements of the Labour Agreement.

- 4.14 You acknowledge that you have not relied on any statement or representation (express or implied) made or advice given by or on behalf of Cairns Chamber of Commerce in entering into the Labour Agreement or taking or failing to take any action in connection with the Labour Agreement.
- 4.15 You understand and accept that Cairns Chamber of Commerce has no liability to you for any costs, loss or damage incurred or suffered by you directly or indirectly arising from or in connection with:
- (a) your request for or entry into a Labour Agreement; or
  - (b) anything done by you, or on your behalf, relating to the entry into or the performance of the Labour Agreement; or
  - (c) anything done to you relating to the entry into or the performance of the Labour Agreement or work performed by employees employed following entry into the Labour Agreement.

## 5. Information Privacy Principles acknowledgements

In accordance with the Queensland *Information Privacy Principles*:

- 5.1 You acknowledge on behalf of your business described in clause 1 of this application (**Business**) that the collection of the personal information contained in this application is necessary for the functions and activities of Cairns Chamber of Commerce;
- 5.2 You acknowledge on behalf of your Business that the Business is entitled to have reasonable access to the personal information contained in this application after it has been lodged with Cairns Chamber of Commerce but that Cairns Chamber of Commerce T shall always be entitled to keep the documents provided;
- 5.3 You acknowledge on behalf of your Business Cairns Chamber of Commerce is collecting the personal information in the business' application for the following purposes:
- (a) considering the merits of the application;
  - (b) verifying the accuracy of the contents of the application (including through contacting third parties regarding the application);
  - (c) complying with relevant reporting requirements;
  - (d) compiling statistics (or engaging a third party to compile such statistics);
  - (e) participating in Cairns Chamber of Commerce surveys; and
  - (f) Complying with its obligations to any other Commonwealth or State government agency.
- 5.4 In carrying out this purpose you acknowledge and agree on behalf of your Business that Cairns Chamber of Commerce may disclose the personal information (including sensitive personal information if any) in the Business' application to:
- (a) Commonwealth Government agencies; and
  - (b) Any other person that referred to in your application (**Third Parties**).
- 5.5 You acknowledge on behalf of your business that if you do not sign this application or if your Business does not provide the required personal information in its application, Cairns Chamber of Commerce may reject the application.
- 5.6 On behalf of the Business, you authorise the Cairns Chamber of Commerce to:
- (a) use the information provided within the application to make necessary inquiries with Third Parties to verify claims provided in the application;
  - (b) provide the application, including supporting documentation to the Third Parties for further consideration;
  - (c) retain the application and supporting documents as per Cairns Chamber of Commerce policies and standards; and
  - (d) Utilise the information provided for data collection and reporting purposes.



<b>Signature</b>			
Dated			
<b>Signed by</b>			
Name		Signature	
Position			
<b>Witness</b>			
Name		Signature	
Position			



Office Use Only – DO NOT COMPLETE THIS PART			
Approved	Yes / No	Rejected	Yes / No
Dated			
Signed by			
Name			Signature
Position			

