

Far North Queensland Designated Area Migration Agreement (FNQ DAMA)

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

General information about the FNQ DAMA

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 at <https://www.cairnschamber.com.au/fnq-dama> regarding what the FNQ DAMA is for, and how it works.

Note that engaging overseas workers under the FNQ DAMA is a four-stage process. Requesting endorsement from the Chamber to access the FNQ DAMA and to enter into a Labour Agreement under the FNQ DAMA, is only the first stage.

Important information before proceeding

By making this request to the Chamber, you are seeking the endorsement of the Chamber 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 apply for a Labour Agreement under the FNQ DAMA if you have first been endorsed by the Chamber, as the DAR, to do so. You understand and accept that the Chamber is under no obligation to endorse you for a Labour Agreement.

The Chamber 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.

Applying for a Labour Agreement under the FNQ DAMA

A Labour Agreement under the FNQ DAMA is a legally binding agreement that will be made between you and the Commonwealth to allow you to sponsor overseas workers under the Temporary Skill Shortage (TSS) 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 TSS Subclass 482 visa arrangements or apply for another type of visa.

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

Note that endorsement to nominate a worker under the Employer Nomination Scheme (ENS) Subclass 186 permanent visa under the FNQ DAMA is not available until 2022. A criterion for ENS endorsement and access to an ENS visa pathway is that the nominee has held a TSS Subclass 482 visa issued under the FNQ DAMA arrangements for at least three years, in an occupation for which there is a Permanent Residence Pathway option. As this Permanent Residence Pathway under the FNQ DAMA will not be accessible until at least 2022, this *Request for Endorsement* form currently only refers to endorsement for the TSS Subclass 482 visa.

Completing this *Request for endorsement to access a Labour Agreement under the FNQ DAMA*

The Chamber is required under the agreement to consider a range of factors in deciding whether to endorse you to access a Labour Agreement under the FNQ DAMA. To assist the Chamber in deciding whether to endorse you, you must:

- pay the endorsement request fee using the Chamber credit card authorisation form (see [“Fees and Charges”](#));
- complete a declaration (available at [“How to Apply”](#)) that you understand the expectations and requirements of the end-to-end process for engaging an overseas worker under the FNQ DAMA;
- provide the completed, signed application form (below) and abovementioned declaration along with any documentary evidence indicated in the form (see Checklist at Section 6), to the Chamber, preferably as a single PDF attachment, emailed to dama@cairnschamber.com.au

Note that the Chamber, in its absolute discretion as the DAR, may request further documentary evidence and information from you that it considers necessary and relevant to consider your request for endorsement. The Chamber will generally only request further information if necessary to clarify aspects of your endorsement request or to substantiate claims made, including claims made in the endorsement declaration form.

You should ensure you read and understand the Terms and Conditions following the form below.

For a list of the relevant matters that the Chamber may take into account in assessing this endorsement, and information regarding the concessions available under the FNQ DAMA, see **Attachment A** at the end of this document.

Request for endorsement form

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)			
Franchise Y/N (if Y give details)	Y / N					
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)						
Does the business operate wholly within the FNQ DAMA designated area? If NO, attach a chart depicting the business operations in and outside the designated area, including relative size of operations.	Y / N					
Period of time you have been operating in the Designated Area						
Do you already hold a Subclass 457 or Subclass 482 Standard Business Sponsorship approval? If yes, please provide a copy of the approval letter	Y / N					
Have you or your business been subject to 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? If YES attach statement with detail (see para 1.4 in Attachment A).	Y / N					

2. Representative contact details						
2.1 If you have been assisted by a Migration Agent in preparing this request, you must complete this section and include a Department of Home Affairs Form 956. Otherwise leave blank.						
Migration agent name						
Migration agency name						
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 nominate for a TSS Subclass 482 visa under the FNQ DAMA in the next 12 months and what roles they would work in.						
Occupation	ANZSCO code	Maximum number of nominations sought in first year	Skills & Exp Concession applies Y/N	Concession to TSMIT sought (Type 1/2/3/4) (see 4.3 below)	Concession to English sought Y/N	Proposed salary
3.2 Please attach two organisation charts outlining your workforce profile - one chart should represent your current workforce profile and the other your intended workforce profile at the end of Year 1 of the proposed Labour Agreement. The charts should include details of position titles and whether occupied by Australian citizens or Australian permanent residents, or overseas workers (including visa type), and names (where possible). If the workforce is based across different locations, this should be represented in the charts. The occupation/s being sought under the FNQ DAMA should be clearly identified.						
<p>Note: If necessary, employers can use the <i>Visa Entitlement Verification Online tool (VEVO)</i> to check the current visa status of their employees at: https://www.homeaffairs.gov.au/Busi/visas-and-migration/visa-entitlement-verification-online-(vevo)</p>						

4. Reasons (attach separate statement if necessary)

4.1 Provide reasons why you are seeking endorsement to access the FNQ DAMA rather than standard visa programs/streams

4.2 Describe why you need the overseas workers you are seeking, including reasons for the number and occupation type

4.3 Provide reasons why you are seeking to access any concessions (TSMIT and/or English) (if applicable)

4.4 If seeking a TSMIT concession, complete and include a TSMIT concessions table (see [“How to Apply”](#)) for each occupation type being requested, and describe how AMSR for the positions was determined

4.5 State reasons why you have not been able to fill the requested positions from within the Australian labour market and describe any efforts made, including time period (include a paragraph for each position type if more than one type)

4. Conditions of endorsement and other matters

- 4.1 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 FNQ 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 nominate on a visa under a Labour Agreement.
- 4.2 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.
- 4.3 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.
- 4.4 You attest 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.
- 4.5 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.
- 4.6 Where a migration agent has been appointed to represent the business, you acknowledge that the Cairns Chamber of Commerce reserves the right to communicate directly with you if considered necessary to facilitate assessment of the merits of the application.
- 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, until a decision is made on any Labour Agreement request under the FNQ 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 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.
- 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 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 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.

6. Checklist			
Completed and signed application form			
Request for endorsement employer declaration form			
Organisation charts (current and future)			
TSMIT concession table (if seeking a TSMIT concession, for each occupation)			
Chart depicting location of business operations (if not operating wholly within Designated Area)			
Statement regarding adverse information (if applicable)			
Standard Business Sponsorship (SBS) approval letter if already a sponsor (if applicable)			
Form 956 (if using a registered migration agent)			
Cairns Chamber of Commerce credit card authorisation form			
Any other information attached (state type):			
Signature			
Dated			
Signed by			
Name		Signature	
Position			
Witness			
Name		Signature	
Position			

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



ATTACHMENT A

1. Relevant matters under the FNQ DAMA and what you may be asked to demonstrate as part of this endorsement request

1.1 Designated Area

- A. Whether you are operating within the Designated Area for the FNQ DAMA, which encompasses the Cairns, Port Douglas, Mareeba, Atherton and Cassowary Coast local government areas (LGAs).

1.2 Genuine vacancy

- A. Whether the positions 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

1.3 Labour market

- A. Whether Labour Market Testing (LMT) has been completed in accordance with requirements. You may be asked to provide:
- Copies of LMT that meet the duration content and method requirement required at Nomination stage
 - Annual Market Salary Rate (AMSR) determination
 - Copy of or information about relevant awards or Enterprise Agreements
 - Evidence that the employment is within the Designated Area

1.4 Good Corporate Citizen

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;

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.

1.5 English and TSMIT concessions available under the FNQ DAMA

A. Where you are requesting any English language or TSMIT concessions to the standard TSS Subclass 482 visa requirements, whether those concessions are reasonable. 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;
- **Minimum income:** Where employers are able to provide a strong business case a concession to the TSMIT may apply to some occupations (TSMIT is currently set at AUD53,900). Following are the four (4) TSMIT concessions that may apply:

Type 1: Reduced TSMIT, and Earnings to include Guaranteed Overtime.

'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.

Types 2, 3 and 4: TSMIT, and Earnings to include Guaranteed Overtime and Non-Monetary and Monetary Benefits;

The Annual Earnings must be equal to or greater than TSMIT, and the Annual Earnings may include monetary and non-monetary benefits.

'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

Monetary and non-monetary benefits, 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.

For concession **Types 3 and 4**, when calculating an Overseas Worker's Earnings, the value of board (comprising accommodation and meals) should not exceed published home-stay rates for the Cairns Region (based on the standard EQI Rate at time of application) <https://eqi.com.au/study-options/fees> .

For concession **Types 2 and 4**, when calculating an Overseas Worker's Earnings, the value of other non-monetary earnings (such as phone, vehicle) cannot exceed 10% of TSMIT).

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 with market rates in Queensland.

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

The salary concessions are summarised as follows:

Concession type #	Type 1	Type 2	Type 3	Type 4
Monetary Earnings	Reduced TSMIT (at least 90% of TSMIT)	TSMIT less Non-monetary Earnings (other)	TSMIT less Non-monetary Earnings (food & board)	TSMIT less Non-monetary Earnings (all)
Non-monetary Earnings (food & board)	Nil	Nil	Annual board not exceeding published Cairns homestay rates*	Annual board not exceeding published Cairns homestay rates*
Non-monetary Earnings (other)	Nil	Capped at 10% of TSMIT	Nil	Capped at 10% of TSMIT
Total Annual Earnings	Reduced TSMIT (at least 90% of TSMIT)	Equal to or greater than TSMIT	Equal to or greater than TSMIT	Equal to or greater than TSMIT

* For Cairns homestay rates, see: <https://eqi.com.au/study-options/fees>

- B. Whether the recruitment of overseas workers is only to supplement the Australian workforce and will not undermine employment and training opportunities for Australians. You may be asked to provide a 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.

1.6 Equal pay and conditions

- A. 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 your 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.
- B. 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 2.3 above). The TSMIT is currently \$53,900 per annum.
- C. Whether overseas workers will be engaged in accordance with applicable Australian workplace laws.
- D. Whether the overseas worker(s) will be employed on a full-time basis as a direct employee and must be paid at least fortnightly.
- E. Whether the position to be filled (as opposed to the business) will 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 the Department of Home Affairs if the overseas worker will be outside of area for more than three out of twelve months.

1.7 Skills and experience, and skills assessments

- A. Whether you acknowledge that overseas workers sponsored under the FNQ DAMA must satisfy minimum skill requirements for the nominated occupation/s in the FNQ DAMA occupations list, based on the requirements outlined at <https://www.cairnschamber.com.au/fnq-dama/overview>

1.8 Settlement information

- A. 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 Subclass 482 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.

1.9 Sponsorship Obligations

- A. Whether you acknowledge that 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>.

Request for Endorsement - Version 5 (7 January 2020)