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## Far North Queensland Designated Area Migration Agreement (FNQ DAMA)

Request for endorsement to access an  
FNQ DAMA Labour Agreement  
(FNQ DAMA v1.3 effective on or after 31 March 2022)

# INFORMATION GUIDE

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 CURRENT FNQ DAMA OCCUPATION LIST
- B. THE CURRENT FNQ DAMA REQUEST FOR ENDORSEMENT FORM

AS CONTAINED IN THE CAIRNS CHAMBER OF COMMERCE [WEBSITE](#)



## **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 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](#).

### **Important concepts unique to the FNQ DAMA**

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

The FNQ DAMA operates in a different way to standard skilled migration programs, using a **labour agreement** framework. This means that:

- An employer can obtain their own labour agreement, valid for five years, that includes:
  - Pre-approval for one or more occupations and positions in a broad range of skilled and semi-skilled occupations;
  - Concessions that provide incentives to attract and retain overseas workers to those positions, such as English, salary and/or age concessions, and a clearly defined permanent visa pathway, among others.
- An employer does **not** need to have identified the prospective worker/s to access an EK DAMA labour agreement:
  - The employer can nominate (“sponsor”) overseas workers already in their employ; or
  - Attract suitably skilled and experienced overseas workers by having occupations and positions pre-approved, with concessions.
- A five-year FNQ DAMA labour agreement can be varied at any time, adding additional or new occupations and positions, or adding further concessions that are available if necessary.

## Stages in accessing Overseas Workers through the FNQ DAMA

Accessing the FNQ DAMA is a two-step process. Nominating individual workers under a FNQ DAMA labour agreement involves a further two steps. The following diagram shows these four steps and who is responsible for each.



### 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. Well-documented and presented endorsement requests are generally finalised by the DAR within five working days. Poorly prepared or incomplete endorsement requests may take longer.

Further information is available in the Cairns Chamber of Commerce website FNQ DAMA page, and in Part 2 (instructions) and Part 3 (technical details) of this Information Guide.

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

The employer then applies online to the Department of Home Affairs for an FNQ DAMA Labour Agreement, using the DAR endorsement letter from Stage 1. This can take a number of weeks, however the employer is generally able to nominate overseas workers for endorsed occupations and positions **before** the FNQ DAMA labour agreement is finalised (with those overseas workers generally eligible for a bridging visa in the interim).

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.

**NOTE:** Stages 1 and 2 above are about the business need for the occupation/s and position/s, and **not** about prospective individual overseas workers even if they are already in your employ.

### **Stage 3 – Nominating individual 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 – Individual 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.

## **Varying an existing FNQ DAMA Labour Agreement**

If you have a FNQ DAMA Labour Agreement in place before commencement of the variations detailed in this FNQ DAMA Information guide (Version 1.3), note that this new version does not change the requirements listed in your existing labour Agreement.

However, you can seek endorsement from the DAR to vary your existing labour agreement in respect of any occupations or concessions in this current FNQ DAMA (for example, to add occupations and/or concessions that were not included in the FNQ DAMA at the time you were approved for your existing FNQ DAMA Labour Agreement.

## **Objectives of the FNQ DAMA**

The objectives of the FNQ DAMA are to complement existing Australian Government initiatives to address skills and labour shortages by:

- Providing the FNQ Designated Area with a flexible mechanism to address workforce shortages and support workforce planning.
- Enabling employers in the FNQ Designated Area, who are unable to recruit appropriately qualified Australians, to supplement their workforce with access to Overseas Workers.

- Enhancing the economic performance of FNQ Designated Area employers who enter into associated FNQ DAMA Labour Agreements.
- Ensuring that Overseas Workers sponsored through FNQ DAMA Labour Agreements receive terms and conditions that meet applicable Australian workplace Law and are no less favourable than those provided to Australian workers.
- Promoting the training of Australians by employers entering into a FNQ DAMA Labour Agreement.

## **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](mailto: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 other than that listed below, unless requested to do so by the DAR.**

### **Endorsement Request (new or additional occupations or 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. 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 not suitable (refer Item 1.5 in Part 3 of this document);
  - 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 (refer Item 1.6 in Part 3 of this document);
  - e. If you are seeking any concessions under the EK DAMA (TSMIT-salary concession, English language concession, age concession), the reasons why you need to access those concessions (refer Items 1.7, 1.8 and 1.10 in Part 3 of this document):
    - i. If seeking a **TSMIT concession**, complete and provide the **TSMIT concession summary**;
    - ii. If seeking an **English language concession**, 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, and the Overseas Worker/s' ability to settle in the community.

- f. (Optional) if you have an outstanding immigration matter before the Administrative Appeals Tribunal (AAT) 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.
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.

## 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 **endorsement** request fee (per position) is payable in full at time of requesting endorsement. The FNQ DAMA **standard endorsement** request fee (per position sought) is:

### Until 30 April 2022

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

### From 1 May 2022

- \$885 – Cairns Chamber of Commerce members\*
- \$985 – non-members

*\*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:

- “DAR” means the Cairns Chamber of Commerce in its role as Designated Area Representative (DAR);
- “FNQ DAMA” means the Far North Queensland Designated Area Migration Agreement;
- “FNQ DAMA Occupation List” refers to the FNQ DAMA Occupation and Concessions List (version 1.3) in effect from 30 March 2022;
- “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, 4868-4876, 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, or the Northern Peninsula Area Regional Council area.

The DAR will consider:

*Whether your business is operating within the 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.*

*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 30 March 2022 are those in the FNQ DAMA Occupation List (v1.3) in the Cairns Chamber of Commerce [website](#).

Some occupations in the combined Skilled Occupation List used in standard skilled visa programs are subject to caveats. The FNQ DAMA includes the following provision that removes 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 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.*

#### 1.4 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.*

#### 1.5 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.*

Evidence of LMT must accompany FNQ DANA Labour Agreement requests to the Department of Home Affairs as well as TSS or SESR Nominations lodged in accordance with a FNQ DAMA Labour Agreement.

For LMT purposes, Far North Queensland is a Category 3 location. For Category 3 locations:

- You must be able to demonstrate at least two separate attempts to test the Australian labour market for the nominated occupation:
  - one advertisement must have national reach;
  - the other may be advertised locally (within the designated area only).
- The evidence provided should be equivalent to that required under the standard skilled visa program but may include advertising conducted on either yours (the sponsor's) or an/or industry website.
- LMT attempts must have been conducted in the last twelve (12) months prior to requesting the FNQ DAMA Labour Agreement and prior to lodging an associated nomination application.

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 DAMA Labour Agreement request, and an associated nomination under the DAMA Labour Agreement.

**Important Note:** While there is no legislative requirement to demonstrate LMT for endorsement stage, the DAR must also be satisfied that there are no Australian citizens or permanent residents available for the occupations/positions sought, and will be looking for a similar level of genuine LMT attempts and evidence.

## 1.6 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;*
- *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 following). 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).*

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

## 1.7 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
<b>Monetary Earnings</b>	At least Reduced TSMIT	At least Reduced TSMIT
<b>Non-monetary earnings (Food and Board)</b>		No more than 10% of TSMIT
<b>Total Annual Earnings</b>	<b>At least Reduced TSMIT</b>	<b>At least TSMIT</b>

#### 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.*

## 1.8 English language concessions

Businesses may seek endorsement from the DAR 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.

For any occupations that are not listed in the FNQ DAMA Occupation List as having access to an English language concession, the Overseas Worker is required to meet the minimum standard English language requirements applicable to the TSS/SESR and ENS non-labour agreement visa streams under the *Migration Regulations*.

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

- **TSS, SESR concession:** average score of IELTS 5.0 with no minimum component score (unless registration or licensing requires a higher level of English).
- **ENS concession:** average score of IELTS 5.0 with no component being less than IELTS 4.0 or equivalent (unless registration or licensing requires a higher level of English).

In this Item, "IELTS" means the International English Language Testing System or the equivalent in another accepted English language test. Other accepted English language tests are:

- Occupational English Test (OET);
- Test of English as a Foreign Language internet-based test (TOEFL iBT);
- Pearson Test of English (PTE) Academic test; or
- Cambridge English: Advanced (CAE) test.

The English language requirements may be met if a visa applicant would be regarded as an 'exempt applicant' for the purpose of the legislative instruments applicable to TSS/SESR and ENS visas.

The DAR will consider:

*Where you are requesting the English language accessible in the FNQ DAMA, 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.*

### 1.9 Permanent residence pathway

A permanent residence pathway for Overseas Workers may be available through the SESR or ENS visa programs for all occupations in the FNQ DAMA Occupation List.\*\* Note however, that for Skill Level 5 occupations such access to a permanent residence pathway is conditional on meeting certain additional requirements.

The following conditions will ordinarily be included in a FNQ DAMA 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.

\*\*Note the additional provision for a permanent residence pathway (ENS) for certain occupations removed from the FNQ DAMA on 30 March 2022 – those occupations will continue to be eligible for a permanent residence pathway (ENS) as detailed below.

- 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
- 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
- The Overseas Worker has been employed on a full-time basis, in the ENS nominated occupation, being an occupation in the FNQ DAMA Occupation List, or an occupation within the same ANZSCO 4 digit unit group or other closely related occupation and also the FNQ DAMA Occupation List, for a period of:
  - at least three (3) years before the ENS nomination is made, for all Skill Level 1-4 occupations; or
  - at least four (4) years before the ENS nomination is made for all Skill Level 5 occupations whereby the overseas worker must be promoted to, or gain

employment in a higher skill level occupation, for a period of no less than two (2) years before the ENS nomination is made.\*\*

\*\*The time spent in the earlier Skill Level 5 occupation will count towards the overall four (4) year qualifying period for the permanent visa nomination which must be in a higher skill level occupation listed in the FNQ DAMA Occupation List.

- D. For the whole time that the Overseas Worker was employed in accordance with paragraph C:
- (a) he or she must have held a Subclass 457 or TSS visa granted; and
  - (b) he or she must have worked in the FNQ DAMA Designated Area; and
- E. 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
- F. 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.

Removed occupations from the FNQ DAMA still eligible for permanent residence pathway (as detailed above) are those in Table 1 below.

**Table 1**

<b>ANZSCO or 6 Digit Code</b>	<b>Occupation</b>	<b>Skill Level</b>
311111	Agricultural Technician	2
134111	Child Care Centre Manager	1
252111	Chiropractor	1
121299	Crop Farmers (nec)	1
253911	Dermatologist	1
253315	Endocrinologist	1
070499	Farm Supervisor	3
851299	Food Trades Assistants (nec)	5
841211	Fruit or Nut Farm Worker	5
841212	Fruit or Nut Picker	5
253316	Gastroenterologist	1
234411	Geologist	1
311413	Life Science Technician	2
841611	Mixed Crop and Livestock Farm Worker	5
253318	Neurologist	1
253914	Ophthalmologist	1
252112	Osteopath	1
253517	Plastic & Reconstructive Surgeon	1
252611	Podiatrist	1
422115	Preschool Aide	4
322312	Pressure Welder	3
253918	Radiation Oncologist	1
253323	Rheumatologist	1
711611	Sewing Machinist	4
323215	Textile, Clothing and Footwear Mechanic	3
253324	Thoracic Medicine Specialist	1



### 1.10 Age concession (SESR and ENS)

An age concession is available for occupations in the FNQ DAMA Occupation List, as well as for occupations removed from the FNQ DAMA Occupation List but still eligible for a permanent residence pathway (as listed in Table 1 at Item 1.10 of this document).

You are able to request the age concession in respect of occupations and positions when seeking endorsement to access the FNQ DAMA or when seeking variations to an existing FNQ FAMA Labour Agreement.

The age concessions available under the FNQ DAMA are:

- For Skill Level 1-4 occupations, an Overseas Worker may be nominated for a SESR or ENS visa only if they have not turned 55 years of age at the time of the Third Party's ENS or SESR nomination;
- an Overseas Worker may be nominated for a SESR or ENS visa only if they have not turned 50 years of age at the time of the Third Party's ENS or SESR nomination.

The DAR will consider:

*The reasons why you are seeking access to the age concession, including:*

- *whether the age concession is likely to broaden the potential pool of prospective Overseas Workers willing to move to the region;*
- *whether there is benefit in attracting and retaining more experienced Overseas Workers, and why;*
- *whether any known potential or existing Overseas Workers in your business are of an age that would benefit from access to the concession, and why.*

### 1.11 Skills, qualifications, experience, and employment background requirements

The DAR will consider:

*Whether you acknowledge that Overseas Workers sponsored under the FNQ DAMA in the occupation/s sought will need to 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. The requirements are listed here by **Group**, corresponding with the **Group** numbers in the FNQ DAMA Occupation List.

**\*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 FNQ DAMA Occupations List occupations in **Group 1**, which are those also 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/SESR or ENS visa connected with these occupations must satisfy the skills, qualifications, experience and employment background required under the standard TSS or ENS visa programs.

All occupations eligible for the SESR visa program require a skills assessment unless exempt under a labour agreement. For FNQ DAMA Occupation List 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; **or**
- Where the relevant AQF qualification was obtained in Australia, only one year of relevant full-time work experience is required for the TSS and SESR visa programs; **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 FNQ DAMA Occupation List occupations in **Group 2**, which are also 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**
- Have at least one year (35 hours per week) relevant work experience if applying for a TSS or SESR visa; **or**
- Where the relevant AQF qualification was obtained in Australia, only year of relevant full-time work experience is required for the TSS and SESR visa programs; **or**
- Have three 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 3-9**

For the Occupations *specified* in **Groups 3-9** 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 all Occupations in the FNQ DAMA Occupations List in **Groups 3-9**. 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 the FNQ DAMA Occupation List in **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 three 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 the FNQ DAMA Occupation List in **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 three 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 the 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 three 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****General ANZSCO Skill Level 1-3 occupations**

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

- Meet the skill level as defined in ANZSCO; **and**
- Have at least two years (35 hours per week) relevant work experience if applying for a TSS or SESR visa or three years full-time work experience if applying for an ENS visa; **or**
- Where the relevant AQF qualification was obtained in Australia, only one year of relevant full-time work experience is required for the TSS and SESR visa programs; **and**
- the visa applicant must undergo a skills assessment by the relevant Skills Assessing Authority (as specified in the Labour Agreement).

**Group 7****Specified ANZSCO Skill Level 3 and 4 occupations**

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

- (Skill Level 4) - have at least a relevant AQF or equivalent Certificate III; **or**
- (Skill Level 3) - 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 three 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 4 occupations**

For the Occupations in the FNQ DAMA Occupation List in **Group 8**, 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 three 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 three 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 three 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 9****General ANZSCO Skill Level 5 occupations**

For the Occupations in the FNQ DAMA Occupation List in **Group 9**, 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).

### **Group 10**

#### **Occupations also included in an Industry Labour Agreement**

For the Occupations in the FNQ DAMA Occupation List in **Group 10**, the skills, qualifications and experience requirements of the associated Industry Labour Agreement will apply. This also includes the relevant Skills Assessment requirements.

The only occupation currently in this Group is in Table 2 below.

**Table 2**

<b>ANZSCO or 6 digit Code</b>	<b>Occupation</b>	<b>Industry Labour Agreement</b>
231213	Ship's Master	Fishing Industry Labour Agreement

#### **1.12 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 3-9 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.

#### **1.13 FNQ DAMA visa pathways**

As with most standard skilled migration pathways, an Overseas Worker must first have held a temporary visa for a specified period of time before they may have access to a permanent visa option.

In the FNQ DAMA, there are two options available:

- An initial [TSS \(temporary\) visa](#) valid for up to four years, that may lead to accessing an [ENS \(permanent\) visa](#) after three years; or
- An initial [SESR \(temporary visa\)](#) valid for up to five years, that may lead to accessing a [Permanent Residence \(Skilled Regional\) \(permanent\) visa](#) after three years if they have complied with the conditions of their SESR visa.

Note that the TSS, ENS, and SESR visa pathways require endorsement for inclusion in your FNQ DAMA labour agreement, and nomination by you, while a Permanent Residence (Skilled Regional) (permanent) visa requires neither endorsement nor your nomination.

When requesting endorsement to access occupations and positions under the FNQ DAMA you must specify the visa option you intend to use (TSS, ENS, or SESR) for each occupation/position. For multiple occupation/position requests, a combination can be requested. The DAR cannot advise you which visa pathway best suits your circumstances or those of any prospective Overseas Worker. You can access information in the Department of Home Affairs website on each option at the links above (be sure to view the 'Labour Agreement Stream' in each case).

If you are unsure, you should seek professional advice from a registered migration agent.

#### 1.14 Existing FNQ DAMA Labour Agreement holders

Provision has been made in the recent varied FNQ DAMA for existing TSS visa holders in removed occupations to remain eligible for a permanent residence pathway via ENS (Farm Supervisor for example). See Item 1.9.

If you have an existing FNQ DAMA Labour Agreement that precedes this latest version, you may seek endorsement from the DAR for additional occupations and or positions in the new list, and also for any of the new concessions, as a variation to your existing Labour Agreement.

#### 1.15 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.

#### 1.16 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 [FAQ page](#) or contact the DAR at [dama@cairnschamber.com.au](mailto:dama@cairnschamber.com.au)**

*FNQ DAMA 1.3 Request for Endorsement Information Sheet (Version 8.1) (31 March 2022)*