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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

(Version 9.1 - Revised and updated 1 September 2022)

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 & CONCESSIONS 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 accessing a labour agreement under the FNQ DAMA is a two-stage process. Requesting endorsement from the Chamber (the DAR) is the first stage. Nominating Overseas Workers against approved occupations and positions in a labour agreement follows that process.

By making a request to the DAR, you are seeking the endorsement 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

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

- An employer can obtain their own labour agreement, usually 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 in the FNQ DAMA Occupations and Concessions List;
- Access to concessions that provide incentives to attract and retain overseas workers to those positions, such as English, salary and/or age concessions, and well-defined permanent visa pathways, among others.
- An employer does **not** need to have identified the prospective worker/s to request access an FNQ DAMA labour agreement:
 - The employer may 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, in a FNQ DAMA labour agreement.
- An FNQ DAMA labour agreement can be varied to accommodate changing needs of a business over the lifetime of that labour agreement (up to five years), such as 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 an FNQ DAMA labour agreement is a two-step process. Nominating individual workers and seeking a visa against pre-approved occupations and positions under the 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. An employer cannot proceed to Stage 2 unless they have DAR endorsement. To seek endorsement, follow the instructions in Part 2 of this document, and submit the information to the DAR. Endorsement requires payment of an endorsement fee. Well-documented and presented endorsement requests are generally finalised by the DAR in up to ten working days. Poorly prepared or incomplete endorsement requests will 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 FNQ DAMA Information Guide.

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

Once endorsed by the DAR, an FNQ DAMA Labour Agreement request can then be submitted online using the Department of Home Affairs *ImmiAccount* system. Once the FNQ DAMA labour agreement request has been submitted, the employer is generally able to nominate overseas workers for endorsed occupations and positions **before** the FNQ DAMA labour agreement is finalised.**

As of writing, submitting a Labour Agreement request in *ImmiAccount* does not attract a fee or charge. Requesting a Labour Agreement includes meeting mandatory legislative requirements as at the date the request is submitted online. This includes evidence that the employer has 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 specifies how many occupation/s and position/s the employer 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/s and/or position/s and/or visa types then that will entail the employer seeking DAR endorsement (as in Step 1) for those additions or changes.

***Overseas workers who are in Australia may be eligible for a bridging visa in the interim, depending on their individual circumstances. You should obtain professional advice or check with the Department of Home Affairs, as an individual person's immigration status or circumstances may prevent a successful nomination or access to a bridging visa. The DAR is not involved in any considerations around individual nominees.*

IMPORTANT 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 the employer has an FNQ DAMA Labour Agreement with the government, they 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 of government costs associated with the nomination and visa stages.

Note that the [prescribed Labour Market Testing \(LMT\)](#) undertaken for the Labour Agreement Stage also needs to be current when an associated nomination application is lodged. Note also that for nominations and visa applications the 'Labour Agreement Stream' is the appropriate stream.

Stage 4 – Individual Nominee/s apply for their visa.

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

Varying an existing FNQ DAMA Labour Agreement

If an employer has 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 that existing labour Agreement.

However, the employer can seek endorsement from the DAR to vary their 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 the employer was approved for the 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 head 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 an employer's access to enter into a Labour Agreement under the FNQ DAMA. Those relevant matters are outlined in [Part 3](#) of this document.

The information outlined below should be submitted as PDF attachments (or preferably a single attachment - other than the Credit Card Authority form) by email to the DAR at dama@cairnschamber.com.au. The Credit Card Authority form **must** be a separate attachment on its own. All documents referred to below are accessible in the Cairns Chamber of Commerce [website](#).

There is no need for an employer 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 (ensure only the **latest version** of the form is used, as listed in the FNQ DAMA webpage);
3. A signed **Business Declaration**;
4. A **covering letter/submission** (maximum four pages) that clearly addresses the following points:
 - a. Why the employer is seeking endorsement to access the FNQ DAMA rather than standard visa programs/streams;
 - b. Why the employer has a need for the occupation/s and position/s being sought, including reasons for the occupation type and number of positions;
 - c. For each occupation sought, why the employer has not been able to fill the positions from within the Australian labour market. The employer should include:
 - i. A summary of the recruitment attempts and outcomes, including time period and places advertised, a description of whether and how many Australian citizens or permanent residents applied and if not suitable, why not suitable (refer Item 1.5 in Part 3 of this document);
 - ii. Copies of the most recent advertisements placed for each occupation;
 - d. The proposed salary for the position/s and how the salary was determined;
 - i. The salary determination may depend on whether there is an equivalent Australian worker in the business for comparison, an internal enterprise agreement, or if not, determination by comparison with market salary rates. Reference to any relevant award that reflects minimum salaries can also be relevant, noting that not all occupations are subject to an award;
 - ii. For guidance, refer to the guidelines at [Department of Home Affairs website relating to Average Market Salary Rate \(AMSR\)](#) determination, relevant to Labour Agreement and nomination stages, as well as Item 1.6 in Part 3 of this document.

- e. If seeking any concessions under the FNQ DAMA (TSMIT-salary concession, English language concession, age concession), the reasons why the employer seeks to access those concessions (refer Items 1.7, 1.8 and 1.11 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 the employer has considered workplace health and safety matters impacted by a lower level of English and how they 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;
 - iii. If seeking an **age concession**, reasons why the concession is sought.
 - f. (Optional) if the employer has 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 (this will help the DAR to comment in the context of the endorsement request).
5. A **position/job description** for each occupation sought;
 6. An **organisation chart** for the employer showing where the position/s sought will be located and who the positions report to:
 - a. The chart should indicate 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 the employer employs any trainees, interns, or apprentices, these should be included.
 7. If not in the employer website, 2-4 **images** of the employer's business/operations 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 the property outlined can show the scale of operations.

Important points to note

Note that 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 the employer that it considers necessary and relevant to assess a request for endorsement; and
- May call or email the business' principal or contact person (or the employer's registered migration agent if one is authorised) to discuss aspects of the 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:

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

**Membership must be held by the employing entity (not their agent), 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 an employer may be asked to demonstrate as part of a request for endorsement.

DO NOT provide any of the following additional information with an endorsement request, beyond that described in Part 2 of this document, 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 [Temporary Skill Shortage \(TSS\) Subclass 482 visa](#);
- “SESR visa” means the [Skilled Employer Sponsored Regional \(Provisional\) \(SESR\) Subclass 494 visa](#);
- “ENS visa” means the [Employer Nomination Scheme \(ENS\) Subclass 186 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, and 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 (v5.0) 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 DAMA 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.

The LMT must have been conducted in accordance with the requirements in the [DAMA Fact Sheet – Labour Market Testing](#). When reading that information, note that Far North Queensland is a **Category 3** location.

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

As the LMT requirements are specified in Migration Legislation, they are not flexible or negotiable. An employer will not be able to enter into a Labour Agreement in accordance with the FNQ DAMA if the LMT requirements are not met.

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:

- Details as to how the proposed salary for the position/s was determined;
- Copy of or information about relevant awards or Enterprise Bargaining 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 for similar positions in FNQ or a similar regional area.

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.

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

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

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

'Reduced TSMIT' means 90% of TSMIT.

TSMIT Concession types

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

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

‘Reduced TSMIT’ applies.

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

Guaranteed overtime where:

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

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

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

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

1. Guaranteed overtime where:

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

in comparable roles; and

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

- The benefits support the living costs of the Overseas Worker;
- The Overseas Worker would have incurred that cost had it not been provided by the Third Party;
- The benefits are quantifiable;
- The benefits are consistent with the terms and conditions provided to existing Australians employed in a similar position;
- The benefits are guaranteed in the employment contract; and
- The benefits exclude contingent payments such as overtime (other than guaranteed overtime) bonuses and commissions.

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

The DAR will consider:

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

1.8 English language concessions

Employers 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 FNQ DAMA visa options and potential permanent visa pathways

Permanent visa pathways may be available through the FNQ DAMA for all occupations on the FNQ DAMA Occupation List.

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

When seeking endorsement to access a labour agreement under the FNQ DAMA, and when requesting the labour agreement, the visa subclass must be specified (TSS or SESR or ENS) for each occupation/position being requested. For multiple occupation/position requests, a combination of options may be requested. The options are:

- The [TSS \(temporary\) visa](#) (482):
 - Valid for up to four years;
 - May lead to accessing an [ENS \(permanent\) visa](#) (186) under an FNQ DAMA labour agreement after three years (see Item 1.10); **or**
- The [SESR \(provisional visa\)](#) (494):
 - Valid for up to five years;
 - May leads to accessing a [Permanent Residence \(Skilled Regional\) \(permanent\) visa](#) (191) after three years;
- An [ENS \(permanent\) visa](#)
 - Allows permanent stay;
 - Only accessible when a TSS visa holder has worked in the FNQ DAMA Designated Area on a TSS visa (or in some cases a 457 visa) in the same occupation for at least three years.

Note that the TSS 482, ENS 186, and SESR 494 visa options each require endorsement for inclusion in an employer's individual FNQ DAMA labour agreement, and nomination by the

employer, while a Permanent Residence (Skilled Regional) (permanent) (191) visa requires neither endorsement nor employer nomination.

When deciding which visa option to specify for each occupation, the information and '**Important Notes**' in Item 1.10 'Permanent residence pathway' (below) should also be taken into consideration.

The DAR cannot advise which visa option or pathway may suit an employer's circumstances or those of any prospective Overseas Worker/s. Information about each visa option can be accessed in the Department of Home Affairs website at the links above (be sure to view the 'Labour Agreement Stream' in each case). Employers should seek professional advice from a migration agent if unsure about which option is most appropriate.

1.10 Permanent residence pathway

The FNQ DAMA Head Agreement between the DAR and the Minister states the following in respect of a Permanent Residence Pathway:

*"A permanent residence pathway for Overseas Workers may be available through the Subclass 494 Skilled Employer Sponsored Regional (SESR) or Subclass 186 Employer Nomination Scheme (ENS) visa programs for all occupations in **Table 14***, **Table 15*** and **Table 16*** below.*

The following conditions will ordinarily be included in a Labour Agreement and will apply to any nomination for an ENS visa (in addition to the ENS requirements outlined in the Migration Legislation).

- (a) The Overseas Worker, at the time of an application for approval of the ENS nomination ('the ENS nomination'), holds a Subclass 457 visa or TSS visa; and*
- (b) The Third Party's ENS nomination identifies an Occupation that was either:

 - o the subject of the most recently approved nomination (in the case of an Overseas Worker who is a Subclass 457 visa holder), or*
 - o the subject of the most recently approved visa (in the case of an Overseas Worker who is a TSS visa holder); and**
- (c) The Overseas Worker has been employed on a full-time basis, in the ENS nominated occupation, being an occupation in **Table 14 or Table 15**, or an occupation within the same ANZSCO 4 digit unit group or other closely related occupation and also specified in **Table 14 or 15** of this Agreement; for a period of:

 - i. at least three (3) years before the ENS nomination is made, for all skill level 1-4 occupations listed in **Table 14 or Table 15**; or*
 - ii. at least four (4) years before the ENS nomination is made for all skill level 5 occupations listed in **Table 14 or Table 16** 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 **Table 14 or 15** below.*

- (d) For the whole time that the Overseas Worker was employed in accordance with paragraph (c):*

- *he or she must have held a Subclass 457 or TSS visa granted; and*
 - *he or she must have worked in the Designated Area outlined in Item 3 of Schedule 1 of this Agreement; and*
- (e) *For occupations in **Table 15**, 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 nomination; and*
- (f) *For occupations in **Table 16**, 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 nomination; and*
- (g) *The Overseas Worker identified in the ENS nomination will be employed on a full-time basis in the position for at least two (2) years, and*
- (h) *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."*

***Table 14** refers to all occupations removed from the FNQ DAMA Occupation List on 31 March 2022 (see list at end of this Item).

***Table 15** refers to all Skill Level 1-4 occupations currently on the FNQ DAMA Occupation List since 31 March 2022.

***Table 16** refers to all Skill Level 5 occupations currently on the FNQ DAMA Occupation List since 31 March 2022.

Important Notes:

For approved occupations/positions in an employer's individual FNQ DAMA labour agreement for which the **SESR 494** visa was specified, the agreement will ordinarily include that the occupation/s is/are eligible for a permanent visa pathway, being the [Permanent Residence \(Skilled Regional\) \(permanent\) visa](#) (191), that does not require further endorsement nor nomination.

For approved occupations/positions in an employer's individual FNQ DAMA labour agreement for which the **TSS 482** visa was specified, the above reference to the permanent pathway will not be reflected in the labour agreement until such time as the **ENS 186** option is also endorsed by the DAR and approved in the labour agreement for the occupation/s and position/s. Note that the TSS 482 endorsement/approval and the ENS 186 endorsement/approval do not need to be requested at the same time – the ENS 186 may be requested in the relevant year that prospective nominee/s fall eligible.

Note however that an ENS 186 visa option cannot be endorsed by the DAR for a year that is beyond the end date of the DAR's current FNQ DAMA Head Agreement (currently 4 April 2024) and would need to be requested during the validity of a subsequent 5-year FNQ DAMA Head Agreement. The DAR will be submitting a request to the Minister for a further 5-year Head Agreement in mid-2023, in advance of the current Head Agreement ending.

*“Table 14 Removed occupations still eligible for permanent residence pathway.”

ANZSCO or 6 Digit Code	Occupation	Skill Level
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

1.11 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 the ‘Table 16’ at Item 1.10 of this document).

The age concession can be requested 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;
- For Skill Level 5 occupations 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.*

1.12 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 in Groups 1-10 in this Item apply to the occupations listed in the FNQ DAMA Occupation List in relation to a TSS visa, a SESR visa, and where eligible, under the permanent residence pathway, an ENS visa.

The requirements are listed in this Item with the Group number corresponding with the Group numbers against each occupation in the FNQ DAMA Occupation List. These requirements will be listed for each occupation in an employer labour agreement.

Skills Assessments

Qualifications are to be assessed and certified by the relevant skills assessing authority as being at least equivalent to the relevant Australian Qualifications Framework (AQF) qualification detailed for the Groups below, in order to assist the Minister's decision as to whether the visa applicant has the necessary qualifications for the position.

Details of skills assessment requirements (including whether a skills assessment is required) are also included in each Group below. Note that applicants for occupations in Groups 1-2 (with some exceptions listed) may require a skills assessment, while applicants for all occupations in Groups 3-10 must undertake a skills assessment.

To find out which is the skills assessing authority for each occupation, refer to the FNQ DAMA Occupation List.

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

For occupations in the FNQ DAMA Occupation List that also appear on an eligible list of skilled occupations (eg. on 'the SOL'), information about the relevant skills assessing authority can be found in the Department of Home Affairs website at [this link](#).

****Work experience**

‘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.

*For Skill Level 5 occupations accessing a permanent residence pathway as per Item 1.10 of this Information Guide, work experience undertaken in the skill level 5 occupation can be counted towards the higher skill level occupation under the TSS program provided it is assessed as genuine and relevant experience.

Group 1**General occupations on the combined list of eligible skilled occupations (Skilled Occupation List)(SOL)**

For occupations in Group 1, which are on an eligible list of skilled occupations (the Short-term Skilled Occupation List, Medium and Long-term Strategic Skills List or Regional Occupation List), 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, SESR and ENS visa programs (unless an exception is outlined below).

Skills Assessment

Must hold a relevant skills assessment at time of nomination if required:

- For Group 1 occupations in the table below, for the TSS and SESR visa programs, applicants must undergo a skills assessment by the relevant Skills Assessing Authority;
- For all other occupations in Group 1, not listed in the table below, being occupations that appear on an eligible list of skilled occupations under the TSS or SESR visa programs, a skills assessment is required, if it is required in accordance with the relevant legislative instrument under the standard TSS visa program set out under Migration law.

Table: Group 1 occupations (that are also on the ‘SOL’) that require a skills assessment

ANZSCO or 6 digit Code	Occupation
231199	Air Transport Professionals (nec)
312112	Building Associate (Building Construction Supervisor)
421111	Child Care Worker (Group Leader)
399911	Diver
231215	Marine Surveyor
231212	Ship's Engineer
342412	Telecommunications Cable Jointer

Skills and Qualifications

Meet the skill level as defined in ANZSCO.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS/SESR:

- Have at least one (1) year of relevant work experience, where the relevant AQF qualification was undertaken in Australia;
- Have at least two (2) years (35 hours per week) of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience.

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

For occupations in Group 2, which are on an eligible list of skilled occupations (the Short-term Skilled Occupation List, Medium and Long-term Strategic Skills List or Regional Occupation List), 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, SESR and ENS visa programs (unless an exception is outlined below).

Skills Assessment

Must hold a relevant skills assessment at time of nomination if required:

- For the TSS or SESR visa programs, a skills assessment is required, if it is required in accordance with the relevant legislative instrument under the standard TSS visa program set out under Migration law.

Skills and Qualifications

Meet the skill level as defined in ANZSCO

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS/SESR:

- Have at least one and a half (1.5) years (specified at 20 hours per week) of relevant work experience; or
- Have at least one (1) year of relevant work experience, where the relevant AQF qualification was undertaken in Australia; or
- Have at least one (1) year (35 hours per week) of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience.

Group 3**Non-ANZSCO Skill Level 1 occupations**

For occupations in Group 3, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

Hold a relevant AQF (or equivalent) Bachelor Degree or higher qualification.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS/SESR:

- Have at least one and a half (1.5) years (specified at 20 hours per week) of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience

Group 4**Non-ANZSCO Skill Level 3 occupations**

For occupations in Group 4, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

Hold a relevant AQF (or equivalent) Certificate IV or higher qualification.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS/SESR:

- Have at least one (1) year (specified at 20 hours per week) of relevant work experience

ENS:

- Have at least three (3) years of relevant work experience

Group 5**Non-ANZSCO Skill Level 4 occupations**

For occupations in Group 5, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

- Hold a relevant AQF (or equivalent) Certificate III or higher qualification; or
- Have at least two (2) years of relevant work experience.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or
TSS/SESR:

- Have at least one (1) year (specified at 20 hours per week) of relevant work experience as the holder of a relevant AQF (or equivalent) Certificate III; or
- Have at least two (2) years (35 hours per week) of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience

Group 6**General ANZSCO Skill Level 1-3 occupations**

For occupations in Group 6, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

Meet the skill level as defined in ANZSCO.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program or;

TSS/SESR:

- Have at least one (1) year of relevant work experience, where the relevant AQF qualification was undertaken in Australia; or
- Have at least two (2) years (35 hours per week) of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience.

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

For occupations in Group 7, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

- Hold at least an AQF (or equivalent) Certificate III for Skill Level 4 occupations; or
- Hold at least an AQF (or equivalent) Certificate IV for Skill Level 3 occupations

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS/SESR:

- Have at least one (1) year (specified at 20 hours per week) of relevant work experience

ENS:

- Have at least three (3) years of relevant work experience.

Group 8**General ANZSCO Skill Level 4 occupations**

For occupations in Group 8, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

Hold at least an AQF (or equivalent) Certificate II.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS/SESR:

- Have at least one and a half (1.5) years (specified at 20 hours per week) of relevant work experience as the holder of a relevant AQF or equivalent Certificate II; or
- Have at least one (1) year (specified at 20 hours per week) of relevant work experience as the holder of a relevant AQF or equivalent Certificate III; or
- Have at least two (2) years (35 hours per week) of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience.

Group 9**General ANZSCO Skill Level 5 occupations**

For occupations in Group 9, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

- Hold at least a relevant AQF (or equivalent) Certificate I; or
- Have at least one (1) year of relevant work experience

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or
TSS/SESR:

- Hold at least a relevant AQF (or equivalent) Certificate I; or
- Have at least one (1) year (35 hours per week) of relevant work experience

ENS:

- Have at least three (3) years of relevant work experience

Group 10**Occupations also included in an Industry Labour Agreement**

For occupations in Group 10, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

A skills assessment is not required.

Skills and Qualifications

Meet the skill level as defined in ANZSCO including where work experience can substitute the formal qualification.

This work experience can be undertaken concurrently with work experience listed below.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or
TSS/SESR:

- Have at least two (2) years of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience.

1.13 Existing FNQ DAMA Labour Agreement holders

Provision has been made in the FNQ DAMA Deed of Variation 1.3 (31 March 2022) for existing TSS visa holders in removed occupations to remain eligible for a permanent residence pathway via ENS (Farm Supervisor for example). See Item 1.10.

Employers who have an existing FNQ DAMA Labour Agreement that precedes this latest version, may seek endorsement from the DAR for additional occupations and or positions in the current FNQ DAMA Occupation List, and also for any of the new available concessions, as a variation to the existing Labour Agreement. Contact the DAR for further information.

1.14 Settlement information

The DAR will consider:

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

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

Employers can obtain a settlement information kit by emailing the Cairns Chamber of Commerce.

1.15 Sponsorship Obligations

The DAR will consider:

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

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

For further information, see the [FAQ page](#) or contact the DAR at dama@cairnschamber.com.au

FNQ DAMA 1.3 Request for Endorsement Information Sheet (Version 9.1 – issued 1 September 2022 – correction to re-include '35 hours per week' in Skills Qualifications and Experience))