

Great Southern Zone of WALGA

Designated Area Migration Agreement (DAMA)

Information Paper

Agenda item title	7.2 Designated Area Migration Agreements (DAMA)
Name of Council	Shire of Kojonup
Name of Author	Grant Thompson and Judy Stewart
Zone meeting date	24 June 2022

Background

Glossary:

DAMA – Designated Area Migration Agreement

DAR – Designated Area Representative

DEPARTMENT – Department of Home Affairs (Australian Federal Government)

EMPLOYER – businesses, sponsors, companies, third parties (identified by their Australian Business Number)

LMT – Labour Market Testing

PR – Permanent Residency

SPONSOR – an employer who is responsible for nominating an overseas worker

The purpose of this report is to present information on Designated Area Migration Agreements (DAMA) to consider the establishment of a DAMA for the Great Southern region, with the vision of attracting skilled and economic migrants to fill areas of demonstrated labour shortage, increase population in the outlying towns and with a view to benefitting local economies by way of population growth (families), increased housing and businesses, and more children for schools.

Comment

COMMENT

What is a Designated Area Migration Agreement (DAMA)?

Designated Area Migration Agreements are a formal arrangement between the Commonwealth of Australia and a designated area representative (DAR). A DAR may be a state / territory government or regional body such as Great Southern Development Commission (GSDC) or local government.

A DAMA is generally a formal five year agreement between the Federal Government and a DAR (such as a local government authority acting on behalf of itself and other local governments) that allows employers to sponsor skilled and semi-skilled overseas workers to fill positions that an employer is unable to fill with Australian workers.

A DAR is responsible for the management and administration of a DAMA programme and endorses (by way of an endorsement letter) an *employer's* application for a DAMA *Labour Agreement* with the Australian Government (once the employer has satisfied the DAMA's terms and conditions – see attached).

Endorsement does not guarantee a business will have a Labour Agreement request approved by the Department of Home Affairs' Minister of Immigration, Citizenship and Multicultural Affairs. A DAMA is reviewed annually and covers an approved list of occupations that may vary from year to year. Initially, a DAR negotiates with the Minister who decides whether to establish a DAMA in the region. A DAMA requires the support of various stakeholder groups and in-depth analysis into relevant job statistics.

Under the terms of a DAMA, the designated area may be able to access a broader range of overseas workers that are not available through the standard skilled visa program by allowing variation to standard occupations and skills lists and /or negotiable concessions to visa requirements.

A DAMA is negotiated on behalf of businesses within its region; negotiations encompass the type of occupations to be included and any concessions that may be appropriate to an occupation (e.g., an extension of the age criteria, a concession on English requirements, a relaxation of skills experience required etc.) making the region as attractive as possible for prospective migrants.

Majority of DAMA agreements include occupations available under the standard TSS 482 visa or regional 494 visa program. However, the benefit of a DAMA is that concessions to the English language, TSMIT (Temporary Skilled Migration Income Threshold), Age, Skills and PR requirements may be available.

DAMA labour agreements are generally in effect for five years and use the Temporary Skills Shortage and Employer Nominated Scheme visa programs.

An employer must demonstrate (via Labour Market Testing [LMT]) that they cannot find a suitably skilled Australian worker to do a job before proceeding with an application for a DAMA Labour Agreement; there are currently 674 occupations listed on the Department's website although other occupations may be put forward for consideration (a copy of some of the employer costs is attached).

Occupations vary widely and, as an example, include agricultural, religious, restaurant (fine dining), and advertising industries. An LMT is a business case presented to a DAR and the Department that provides solid evidence of not being able to find a suitable

Australian worker and includes advertising on the Australian Government's *Jobactive* website in addition to other advertising.

A business may also enter into its own Labour Agreement with the Minister (outside of a regional DAMA) if an occupation is not available under the standard visa programme or the DAMA programme; negotiations are based on a labour market survey that demonstrates the reason why a previously unlisted occupation has been applied for.

BENEFITS OF DAMA

Economic benefits to communities, such as the flow on effects of population growth, may be more accurately predicted following analysis of results from a community employer survey.

The key value opportunity is that immigrant workers cannot move from the area of their DAMA but can move between businesses within that area, so people are secured to the region.

English Language Concession: The English test scores required under a DAMA can be lower than under the standard visa program making it easier for the applicant's visa to be processed. This especially the case where a person is generally a good English communicator but perhaps not able to meet the requirements of a stringent English test for a visa.

Temporary Skilled Migration Income Threshold (TSMIT) Concession: The TSMIT concession allows the employer to pay the visa holder the same or more salary that is paid to an Australian Worker. The DAMA offers salary concessions that reflect the market, ensuring that worker terms and conditions of employment are not eroded, and businesses and consumers are not subject to inflationary costs.

Skills Concession: Every occupation requires the applicant to meet certain qualification and work experience criteria to be eligible to work under their occupation. So, the skills concession offer concession relating to, qualifications and experience for some occupations.

PR requirements: Under the DAMA agreement, the immigration has provided an opportunity to move from temporary 482 visa to permanent resident, regardless to what the occupation is. The DAMA region has its own specific pathway to PR. This will however involve applicant working in the occupation for 2-4 years being eligible to transition onto the permanent 186- Employer Nominated Scheme Visa.

Age Concession: To transition into Permanent residency, every applicant must meet the age criteria of being under the age of 45. The age concession under the DAMA agreement will offer concession related to the age of an applicant.

Another benefit of the DAMA is that the semi-skilled occupations that are in shortage in the particular region could be available under a DAMA, while they are not available

under the standard visa program. Some examples of such occupations are Truck driver, Waiter, Bar attendant, Driller, Driller Assistant, Earthmoving/mobile Plant Operator, Horticultural workers such as process workers and field workers.

NEXT STEPS

The first step in looking into the possibility of a DAMA for the region is to establish whether organisations within the prospective region are conducive to a DAMA being formed.

If approved a Business Case must be undertaken that includes:

- Support letters from:
 - All the involved Shires
 - Any Chambers of Commerce
 - The Regional Development Authority
 - Local Federal and State Members of Parliament
 - Businesses (if possible)
 - Different Business Bodies (if possible)
- Overview of the region's economy and labour issues - can be demonstrated by:
 - Compelling operational needs
 - Economic recovery (Covid-19 economic recovery)
 - Contractual obligations for employers to meet projects, bringing food to the market etc.,
 - Competing for skilled labour
 - Many more
- Survey Results –
 - How many businesses participated in the workforce survey?
 - What are the commentaries on labour issues?
 - What type of occupations are in critical shortage in the region?
 - What type of migration concessions businesses would like to have? E.g.; lift age for PR pathway from 45 to 50 years old, English concession for most occupations, etc.

Advice from the office of Rick Wilson MP states that a request for a DAMA must contain, as a minimum, the following:

- a letter of endorsement from the relevant stakeholders;
- a Designated Area Representative (DAR), endorsed by stakeholders, who can manage the request to establish an agreement;
- a business case if any additional concessions are being requested (for example, English, skills, salary) to the minimum requirements outlined for a company specific labour agreement; and
- an explanation of how the DAR proposes to support employers and facilitate the integration of overseas workers in their local communities (for example - provision of information on workplace rights and sponsorship obligations; basic services in the local area such as health; emergency and educational

- services; community activities such as sporting groups and religious services; engagement of a multicultural officer);
- supporting documentation, which may include:
 - Profit and loss statements;
 - Other financial statements; and
 - Other relevant supporting information.

A case study of a region in Western Australia currently covered (since 21 March 2019) by a Designated Area Migration Agreement (DAMA) is the Goldfields region with the City of Kalgoorlie-Boulder (City) being the DAR and representing other regional and nearby shires.

The Goldfields Region aimed to secure permanent labour so as to avoid having to constantly retrain people such as backpackers (for example, for the community care occupation). The Pilbara region had also applied for a DAMA before the Goldfields was secured; however, was unsuccessful in their application.

By way of an example, the Goldfields DAMA is an employer-sponsored visa programme providing the framework for employers in its designated area to sponsor skilled and semi-skilled workers under visa subclasses 482, 494, and 186 (see attachments 13.3.4-6):

- TSS (482) – a 4-year visa (temporary) under the DAMA LA. The 482 can be a 2 or a 4-year visa depending on the occupation and location.
- SESR (494) – a provisional visa with a PR pathway already – an applicant can apply for PR after 3 to 4 years.
- ENS (186) – a PR pathway visa. Some people can be nominated straight onto the ENS under the Goldfields DAMA but only after they have worked under a Temporary Skills Shortage (482) or Direct Entry Scheme (457) visa within the DAMA region and in the same occupation for 3 years. After they have been nominated under the ENS, they are eligible to apply for a PR right away. Note: a skilled migrant can be nominated straight onto the ENS visa under the standard visa programs.

The opportunity to secure a permanent residency after 4 years makes working in the Goldfields DAMA region attractive for skilled migrants to relocate.

The process of becoming a DAMA took the City approximately 12 months once the application was submitted following a financial consultancy business being engaged to undertake the City's business case (which can take between 3 – 6 months to establish).

The following made up the City's questions for the survey of businesses (using Survey Monkey) referred to in the above Business Case list of requirements and was compiled and analysed by the City's consultant:

1.1 What are the specific challenges in attracting and retaining workers in your business?

1.2 Do you employ or have in the past employed any temporary visa holders? If yes, select from the following: (Other, please specify)

1.3 What are the limitations of the standard visa programs? (Other, please specify)

1.4 How would being an 'endorsed' sponsor under a DAMA address these challenges: Select all that applies in order of importance:

2.1 Is your business currently experiencing labour shortage or anticipate a labour shortage based on business forecasts?

2.2 Have you considered the use of the following specific industry agreements to meet your labour shortage needs?

Are there any perceived barriers to the existing Labour Agreements?

2.3 Which of the following recruitment processes have you used to attract Australian workers since 1 July 2018? (Other)

2.4. How many Australian workers have you recruited since 1 July 2018?

3.1 For each of the positions you are seeking to fill, do you need to seek any concessions to the English language testing score requirements?

If yes, which test component should have lower score requirement

Explain why

3.2. What strategies are in place for your workplace to support skilled migrant workers to improve their English language proficiency? For example, on the job training, dedicated community programs etc.

4.1 For each of the roles you are seeking to fill, will the base salary be below the Temporary Skilled Migration Income Threshold (TSMIT), currently AUD53,900?

If yes, what is the market salary rate for the role you are seeking a concession from the TSMIT? - If yes, what is the market salary rate for the role you are seeking a concession from the TSMIT?

4.2 Are there any 'cost of living' or other benefits that would normally be offered as non-monetary benefits for Australian workers (e.g., food and board)?

If yes, please specify - If yes, please specify

5.1 Would the ability to sponsor skilled migrant workers for permanent residence benefit your business?

5.2 What would be the benefits for you as an employer?

5.3 Currently employers can sponsor workers for permanent residence if they are less than 45 years of age unless, their salary meets the high income threshold in the 3 years prior. Do the age limit or high income threshold pose a challenge for you to attract and retain skilled migrant workers?

If yes, what should be the age limit increased to?

If yes, what should be the income threshold reduce to?

5.4 Currently employers can sponsor workers for permanent residence who have been employed in the same position with the same sponsoring employer for at least 3 years. Does this pose a challenge for you to attract and retain skilled migrant workers?

If yes, what changes to the permanent residence requirements would benefit your business?

If yes, what changes to the permanent residence requirements would benefit your business? (Other, please specify)

6. Please provide any other comments or suggestions on what changes should be made to the employer sponsored visa programs that would help your business attract and retain skilled migrant workers?

From a human resource perspective, the city provided half an FTE (full time equivalent staff member) to liaise with the consultant throughout the formation of the Business Case and, on an ongoing basis, performs the following human resource tasks:

- Dealing with an approximate average of 1 to 2 business applications per month (at a charge of \$250 for each nomination) for endorsement (including Statutory Declarations and ensuring businesses are financially viable and reliable)
- Spending a lot of time answering queries
- Seeking guidance from a queries team within the Department
- Undertaking of an Annual Report for the Department and Minister
- Negotiation of ongoing Terms and Conditions
- Surveys and analysis of the regional labour market
- Monthly meetings with a Department representative to discuss the DAMA programme (the Department also liaises with businesses)

Other points of note gained through discussions with external organisations include:

1. A subclass 491 visa (for highly skilled and desired occupations) requires nomination by the State Government or an eligible family member and doesn't require a sponsor – *this visa cannot be included in a DAMA*;
2. The City has a population of approximately 30,000;
3. The more local government authorities involved, the better the chance of securing a DAMA; and
4. A larger organisation (e.g., local government, Regional Development Authority) within a region would usually take on the role of region representative (DAR).

Creating a DAMA is an extensive process; particularly for the lead organisation (DAR) involved in the application and consultancy phase through to managing ongoing endorsements etc. and liaising with the Department for the five year term.

Such a project requires the support of many stakeholders including regional shires, Chambers of Commerce, Regional Development Australia (RDS), Development Commissions, and members of parliament all of whom must endorse the organisation that is capable and agreeable to being a Designated Area Representative. Given the scope of this project, it may fall within the scope of the GSDC or RDA?

Accordingly, the recommendation is for GS WALGA Zone to consider and support establishing DAMA in the region.

ALTERNATIVE VISA OPTIONS TO DAMA

Pacific Labour Mobility Scheme

The Scheme enables citizens of partner countries to take up low-skilled and semi-skilled work opportunities in all sectors in rural and regional Australia for up to 3 years. Partner Countries: Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, and Vanuatu.

Seasonal worker Program (Agriculture and Accommodation)

The Scheme enables citizens of partner countries to take up unskilled and low-skilled work opportunities in the Australian agriculture and accommodation sectors in selected rural and regional locations of Australia for up to 9 months.

Partner Countries: Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, and Vanuatu.

Industry Labour Agreement

Labour agreements enable approved businesses to sponsor skilled overseas workers when there is a demonstrated need that cannot be met in Australian labour market and where standard temporary or permanent visa programs are not available. Industry labour agreements are for a specific industry with fixed terms and conditions. The industry is required to show ongoing labour shortage and extensive consultation within the industry. Various approved industry labour agreements are Dairy industry, Fishing industry, Meat industry, Pork industry, Advertising industry, Restaurant (Fine dining) Industry, on-hire, and Minister of Religion Industry labour agreement.

Standard Business Sponsorship -482 (For highly Skilled Occupations)

This temporary visa lets an employer sponsor a suitably skilled worker to fill a position for which they can't find a suitably skilled Australian. Based on the occupation, this visa is generally granted for 2-4 years.

STATUTORY DEPENDENCY

Migration Act 1958

Financial Implications

As outlined in the below Project Estimations the cost of a consultant to conduct a survey of regional employers, to research and provide statistics, and to identify any occupations that may fit the criteria for inclusion in a DAMA application is circa \$60,000 to \$70,000 direct costs.

A Team Member resource is required to liaise with the consultant (the City of Kalgoorlie-Boulder's staff representative was estimated to be required on a 0.5 FTE basis for the purpose of establishing the City's DAMA) and, following the successful application involvement with ongoing tasks as above.

	PROJECT ESTIMATIONS					
	Project Name:		DAMA Application & Process			
	Project Owner:		TBD			
	Project Manager:		TBD			
	Expected Project Start Date:		1 May 2022			
	Expected Project End Date:		1 May 2023			
Project Estimations Plan Status:		Preliminary				
High Level Description of Works - Enter Below						Altus Doc Link
1	Consultant engaged to manage external stakeholder requirements and application process					
2	0.5 FTE Admin Role allocated - Utilise current Shire resources to support the DAMA application					
3	Administration On Costs associated with admin support role					
4	Provide DAMA services to regions as per the outlined Agenda item					
5	One stakeholder becomes the DAR					
6	Costs shared between Shire Organisations					
7	Cost recovery on applications					
Budget Breakdown						
	Item	Quantity	Unit	Rate	Total Price	Summary Cost
Internal Resources						
LABOUR						
1	Project Sponsor	200	Hours	50.00	\$10,000	\$60,500
2	Project Owner	500	Hours	35.00	\$17,500	
3	Team Member Admin Resource	1000	Hours	33.00	\$33,000	
EQUIPMENT						
4	Administration On Costs	1	-	10,000.00	\$10,000	\$10,000
Internal Resources Total						\$70,500
External Resources						
LABOUR						
5	Consultant	700	Hours	100.00	\$70,000	\$70,000
External Resources Total						\$70,000
Sub-total						\$140,500
	Direct Costs (Expensed)					\$70,000
	In Kind (Current Resource Allocation)					\$70,500
	Project Owners Contingency					\$14,050
	10.0%					
Expected Overall Cost of Project						\$154,550
Special Notes / Exclusions						
a.						
e.						

RISK MANAGEMENT IMPLICATIONS

RISKS			
Risk Profile	Risk Description/Cause	Key Control	Current Action
<i>Financial Risk</i>	<i>Cost of application and external professional fees with no approval</i>	<i>Contract resources Commitment to the program</i>	<i>Contract the parties to commit to financial input and support and sell the DAMA process within</i>

			<i>the Shires.</i> <i>Diffuse the potential economic cost over more participants</i>
Risk rating: Moderate			
IMPLICATIONS			
<i>Opportunity Cost – loss of expenditure if not successful. If application is successful, the cost of administration with no economic value generated.</i>			

Recommendation

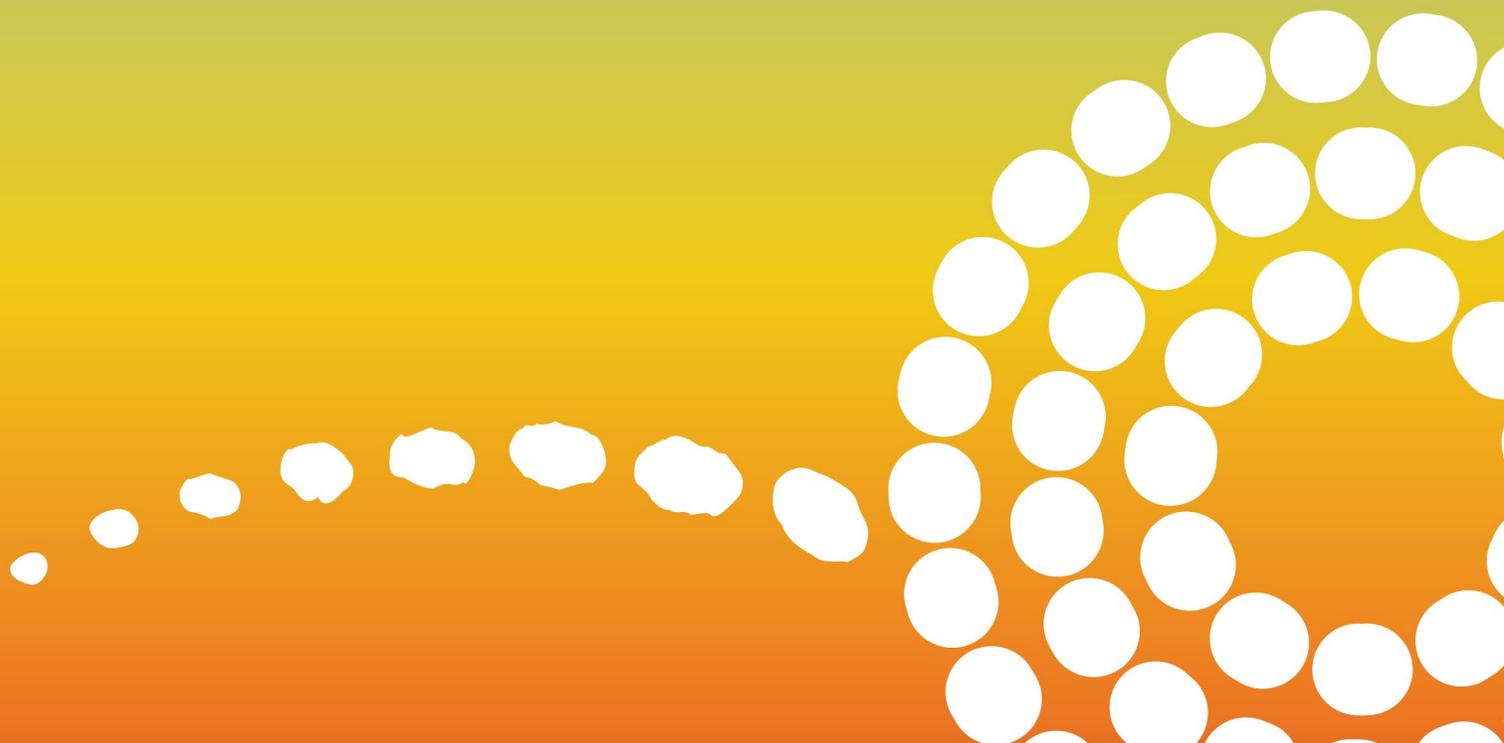
That the Great Southern Zone of WALGA:

- 1. Support the creation of a Great Southern DAMA region and help identify a Designated Area Representative.**
- 2. Facilitate a discussion on the funding model for each of the participating organisations.**

GS WALGA ZONE

DAMA Presentation

2022



What is a Designated Area Migration Agreement (DAMA)?



- Designated Area Migration Agreements are a formal arrangement between the Commonwealth of Australia and a Designated Area Representative (DAR).
- A DAR may be a state / territory government or regional body such as RDA, GSDC or local government.

A DAMA is a two-tier framework:

- The **first tier** consists of an overarching five-year deed of agreement between the Commonwealth and the DAR;
- The **second tier** comprises of individual labour agreements with employers using the terms and conditions of the overarching agreement.
- Under the terms of a DAMA, the designated area may be able to access a broader range of overseas workers that is not available through the standard skilled visa programs by allowing variation to standard occupations and skills lists and /or negotiable concessions to visa requirements.
- DAMA labour agreements are between the Australian Government and endorsed employers operating within the relevant region. They are generally in effect for five years and use the Temporary Skills Shortage and Employer Nominated Scheme visa programs.

Roles and Responsibilities

Designated Area Representative (DAR)

- Engagement and consultation with the Department of Home Affairs, employers and stakeholders as required
- Create and submit a business case to request a DAMA for their region
- Assessing and endorsing employers who want to sponsor overseas workers under the established DAMA
- Monitor activity and report on issues to the Department of Home Affairs
- Manage ongoing governance of DAMA including variations, reports and evaluations

Department of Home Affairs

- Works with the DAR to assess their business case and negotiate a DAMA for the region
- Works with endorsed employers to establish the individual DAMA Labour Agreements
- Process nominations and visa applications made under the DAMA Labour Agreements
- Work with DAR to evaluate and review the DAMA annually
- Process Deeds of Variation and annual ceiling requests for both the DAMA and DAMA labour agreements

Employers (or appointed migration agent)

- Seek endorsement from the DAR to sponsor overseas workers under the DAMA
- Enter into individual DAMA labour agreements with the Department of Home Affairs
- Lodge nominations to fill vacancies
- Pay all applicable fees and levies upfront at time of nomination
- Lodge annual request for subsequent ceiling approvals under the DAMA Labour Agreement

Note: Employer Sponsors are subject to temporary residence sponsorship obligations and a sanctions framework under existing Migration law

Key Benefits of DAMA

Regionally specific occupations	<ul style="list-style-type: none">• Tailored to your region• A flexible, tailored response to a designated region's local unique economic and labour market needs and conditions
More occupations	<ul style="list-style-type: none">• solutions for Australian business where there are skills gaps and shortages that can't be met by the Australian market;• Across the range of ANZSCO skill levels, including semi-skilled occupations• Greater choice of occupations than the standard skilled migration programs
Visa Duration	<ul style="list-style-type: none">• Access to a broader range of overseas workers than available through the standard skilled visa programs;• Temporary (TSS) visa up to 4 years for all occupations, or• Provisional (494) visa for 5 years for all occupations
Concessions to standard visa requirements	<ul style="list-style-type: none">• Recognise regional diversity• Greater flexibility to attract a broader range of applicants• various negotiable concessions to the standard skilled visa requirements; and• pathways to permanent residence as a major incentive to attract and retain overseas workers.
Pathway to permanent residency	<ul style="list-style-type: none">• Available for more occupations• Enable regions to attract and retain workers• Less staff turnover for regional employers

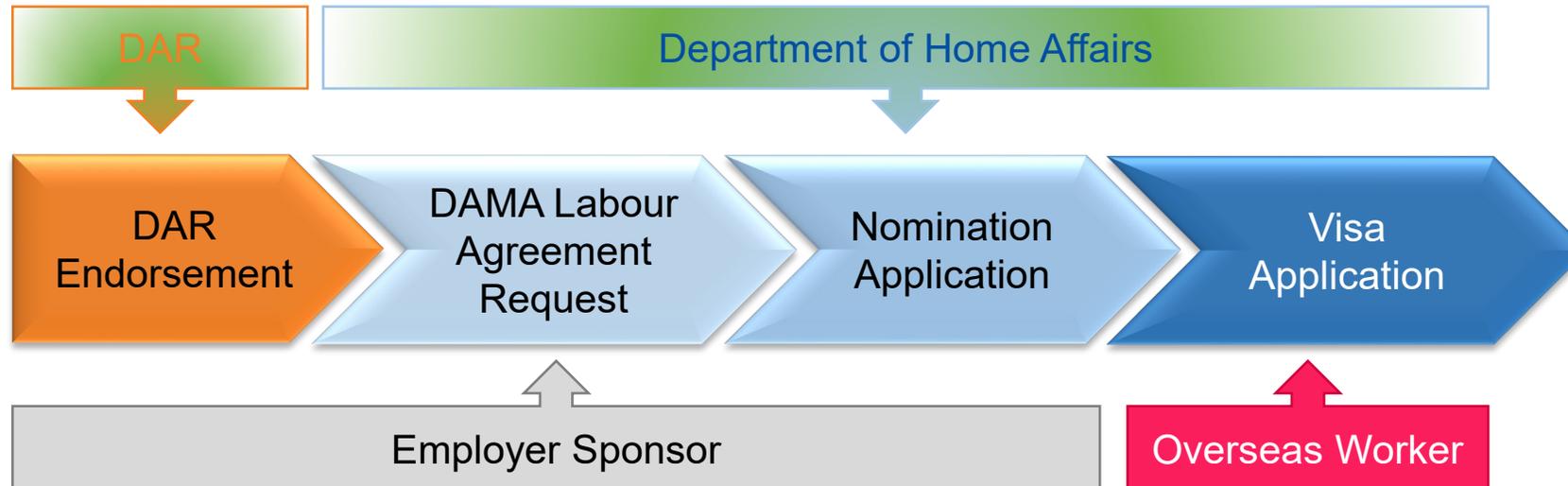
Basic requirement for Employer DAR application



- The business is actively operating for at least 12 months and Financially viable.
- The business is located with the approved regions under the DAMA agreement
- The occupation to be filled should be listed on the negotiated approved DAMA occupation list.
- The business can pass the Labour Market Testing requirements, including providing evidence that it cannot attract an Australian citizen or resident to fill the position.

DAMA Application Process for Employers

Process flow and participants

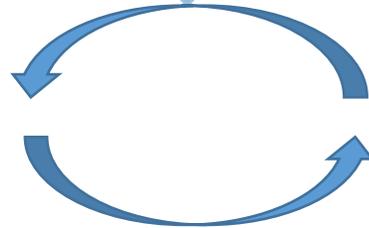


How is a DAMA established?

Region submits a business case for a DAMA

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs agreed to enter into negotiation with the DAR for a DAMA

Terms and concessions negotiated by DAR and the Minister's delegate (Department of Home Affairs)



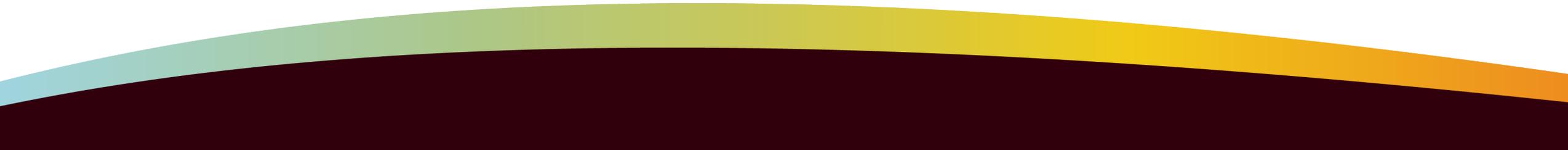
DAMA signed by both parties and is executed

DAMA Labour Agreement Template is created

TIER 1

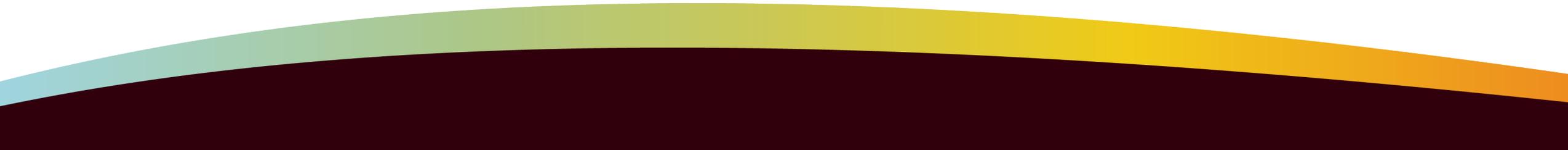
TIER 2

Pathway to Regional DAMA

- Organisations to support a Great Southern DAMA.
 - Identify which organisations want to be involved?
 - Agree on funding model.
 - Agree on which organisation (DAR) is going to host the DAMA.
 - Agree the MOU/Service Level Agreement with the DAR.
 - DAR to facilitate the Business Case and apply for and negotiate a DAMA with the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Department of Home Affairs).
 - DAR to implement the DAMA Application Process for Employers and host the resources.
- 

Pathway to DAMA – Business Case

A Business Case is required and must include:

- Support letters from:
 - All the involved Organisations
 - Any regional organisations such Chambers of Commerce, Businesses (if possible) Different Business Bodies (if possible)
 - The Regional Development Authority
 - Local Federal and State Members of Parliament
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c.						

