

## Kimberley Designated Area Migration Agreement

# KIMBERLEY DAMA ENDORSEMENT SUBMISSION GUIDE

## STEP-BY-STEP GUIDE TO PREPARING A KIMBERLEY DAMA REQUEST FOR ENDORSEMENT

(Version 4.0 designed 1 January 2024)

### INSTRUCTIONS FOR USING THIS GUIDE:

- This is a guide to preparing your endorsement request only, and does not replace the need for you to read the detailed information in the Kimberley DAMA Occupation and Concessions list in conjunction with the Kimberley DAMA Information Guide (both accessible in the EKCCI website);
- If you are an employer, this guide does not replace the need for you to seek professional advice as necessary, particularly if you are unsure about any aspects of your endorsement request;
- This guide takes you step by step through the minimum required information, and is not exhaustive – if there are unusual or extenuating circumstances you consider relevant, you should add this information;
- Where possible, all information (except the Credit Card Authority) should be combined in a single PDF email attachment (or if more than one attachment, the fewer the better);
- The EKCCI will contact you if they require further information to consider your endorsement request;
- All information you provide in support of your request will be forwarded to the Department of Home Affairs (Labour Agreement Section) with an EKCCI endorsement letter if your request is successful;
- The EKCCI Credit Card Authority for payment of the endorsement fee must be provided as its own separate attachment - this is the only document that is not forwarded to the Department of Home Affairs.

### NOTE FOR REGISTERED MIGRATION AGENTS/IMMIGRATION LAW FIRMS

- If you have your own format and protocols you are not obliged to follow the format in this guide, as long as your endorsement request on behalf of your client is clear, coherent and well-presented.

## ITEM 1

### BRIEF INTRODUCTORY LETTER (MAXIMUM ONE PAGE) (OPTIONAL)

**Provide here, an introductory/cover letter (optional).**

- This is where a migration agent/lawyer might for example provide a cover letter indicating they represent you – agents sometimes provide a list of contents/attachments;
- If you are not using an agent, a cover letter is still useful but not essential:
  - Note that your actual submission comes later!

## ITEM 2

### KIMBERLEY DAMA REQUEST FOR ENDORSEMENT FORM (MANDATORY)

**Provide here, a fully completed Kimberley DAMA Request for Endorsement Form.**

- Form accessible in the [EKCCI website here](#) (in the 'Resources' section).
- ALWAYS use the latest version from the website – if you submit an old version you may be asked to complete it again on the latest version.
- NOTE:
  - PART A
    - Item 1 - this must be the name of the employing entity – this name will be one used for the endorsement;
    - Item 10 – the authorised contact is never a migration agent or lawyer – it must be the authorised person in the business seeking endorsement.
  - PART B
    - If using a migration agent or immigration lawyer and this part is completed, a Department of Home Affairs Form 956 is not required.
  - PART C
    - In the occupations table, make sure you follow the format in the sample provided – all fields from left to right must be completed for each occupation;
    - See the notes under 'Genuine Need for Occupation/s Sought' in Document 3 regarding ANZSCO titles and codes;
    - The proposed salary must be the annual guaranteed salary (excluding superannuation).
  - PARTS D, E & F
    - Make sure you read these before signing the form, as this includes a 'declaration'.
  - PART H
    - This is a legal document with a declaration;
    - If the form is not properly signed and dated by the Business principal or authorised person, and by the witness (who can be anyone in the Business), the form will be returned to you for correct completion;
    - The form must not be signed by an agent on your behalf.
  - CHECKLIST
    - This is for your purposes only and is not essential.

## ITEM 3

### YOUR WRITTEN SUBMISSION (FOUR PAGES OR LESS PREFERRED) (MANDATORY)

Provide here, a written submission to support your endorsement request.

- Your written submission MUST cover the following information (you may use the following bold headings as a guide if you wish):
  - **Business Overview**
    - For example the Business size/scale, what it does, the operating area (Kimberley only or wider), how long the Business has been operating in the Kimberley region, the operating hours (eg. if a restaurant for example, the hours and seating capacity, or for accommodation providers, the room capacity etc), workforce profile/size;
    - Do not assume the reader knows anything about your Business;
    - If your business operates under a trust structure, include a copy of the trust deed.
  - **Reasons for Requesting Access to the Kimberley DAMA**
    - The reasons why you are seeking to access the Kimberley DAMA rather than standard skilled migration programs.
  - **Genuine Need for Occupations Sought**
    - Describe what the occupations are that you need;
    - If your internal position title/name differs from the ANZSCO title/name title, describe how they relate to each other:
      - Note: For Kimberley DAMA occupations that are in ANZSCO, you can search for the ANZSCO description by occupation name or six digit code in the [ANZSCO website here](#);
      - Note: Your Business may have a different title compared to the one in ANZSCO – your occupation/s sought must ‘substantially align’ with the Tasks in ANZSCO, despite the name;
      - Note: Some occupations in ANZSCO include ‘Alternative Titles’ or ‘Specialisations’.
      - For Kimberley DAMA occupations that are not in ANZSCO (those with code 070499), the position descriptions are accessible in the [EKCCI website here](#) (in the ‘Resources’ section).
    - Describe why your Business needs each of the occupations sought, and why you need the numbers requested, for example:
      - Whether the occupation/s and position number/s are existing vacancies or whether they are new to cater for growth/expansion/ diversification etc.;
      - A brief description of where the occupations/positions fit within the Business (note: later you will need to include an org chart);
      - Any impact on the Business of not having these occupations/positions filled;
  - **Labour Market Testing (LMT)**
    - Describe here what you have done to try to employ an Australian/s for the role/s, such as where you advertised, when, and for how long (note you will need to attach the advertisements later – see Item 6);
    - Give an overview of the outcome of attempts to recruit Australians, and whether any Australians were recruited (note: you will provide details later);
    - If you have historically had difficulty recruiting to the occupation/s and position/s, a brief description of the historical recruitment efforts;

- Reference any relevant industry information about skill shortages if you wish (optional);
  - Useful information on DAMA Labour Market Testing can be found [here](#) (in the 'Resources' section).
- **Employment Terms and Conditions**
  - Describe here whether the occupation/s and position/s you are seeking under the Kimberley DAMA are full-time, and for how long;
  - Describe whether accommodation or any other benefits are included or provided, or made available;
  - You may wish to include a sample employment contract (later).
- **Salary/Remuneration**
  - State the proposed annualised salary/remuneration for each occupation/position sought (not including superannuation);
  - Describe how you determined the proposed salary for each occupation – for how to do this, [click on this link](#);
    - Note the references to whether your Business has an EBA, whether there is an 'equivalent Australian employee' in your Business to compare with, and how to research online for the Annual Market salary Rate (AMSR);
    - Note that the AMSR nationally, state-wide, and regionally, will be different – focus on your region (or similar regions) and compare as relevant;
    - If there is a relevant award you should also reference this, noting that awards indicate the minimum salary (not the AMSR), and that not all occupations are covered by an award.
- **TSMIT/English/Age Concession/s**
  - If you are seeking the TSMIT (salary), English language, or age concessions, the reasons why you are doing so:
    - You will find more detail on what the EKCCI is seeking about each of the concessions, by referring to the relevant part of the Kimberley DAMA Information Guide (in particular the information in the text boxes);
    - If seeking the TSMIT concession, you will attach the TSMIT Concession Summary later.
- **Outstanding/Pending Immigration Matters with the Administrative Appeals Tribunal or Courts (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 (this will help the DAR to comment in the context of your endorsement request).
- **Adverse Information (IF APPLICABLE)**
  - If you have been subject to any immigration or sponsorship investigations, breaches or sanctions, you should describe these and provide any additional information for the EKCCI to take into account.
- **Prospective Overseas Worker/s**
  - Comment on whether any prospective Overseas Worker/s is/are already in your employ or whether you have yet to seek Overseas Workers for the occupation/s and position/s sought;
  - Note: It is not necessary to have identified any prospective Overseas Worker/s at time of seeking endorsement or a Kimberley DAMA labour agreement – it is your Business need for the occupation/s and position/s that is being assessed.

## **ITEM 4**

### **A POSITION DESCRIPTION FOR EACH OCCUPATION SOUGHT**

**Provide here, a position description for each occupation sought.**

- These should include who the position/s report to and which roles (if any) they manage/supervise.

## ITEM 5

### BUSINESS ORGANISATIONAL CHART

**Provide here an organisation/structure chart of your Business.**

- The chart should:
  - Indicate the various levels (who reports to who);
  - Indicate which positions (or numbers of positions) are filled by Australian; citizens/permanent residents and which are filled by overseas workers (including visa type);
  - Show where the occupations/positions sought under the Kimberley DAMA fit within the structure;
  - Note: Larger Businesses with a large workforce do not necessarily need to specify each individual - numbers in each role will suffice for example.

## ITEM 6

### COPIES OF THE MOST RECENT ADVERTISING FOR EACH OCCUPATION ('LABOUR MARKET TESTING')

**Provide here copies of or evidence of your Labour Market Testing (LMT) for each occupation sought.**

- Note that Labour Market Testing (LMT) MUST be undertaken for each occupation sought and MUST be undertaken in line with the expectations of the Department of Home Affairs.
- LMT requirements for the Kimberley DAMA are much more lenient and flexible than they are for standard skilled migration.
- Your endorsement request cannot be assessed without appropriate LMT.
- As a general overview:
  - You must be able to demonstrate at least two separate attempts to test the Australian labour market in at least two different media for at least 28 days each (or twice in the same media on separate occasions) for the nominated occupation/s:
    - At least one advertisement must have national reach;
    - The other may be advertised locally (within the Kimberley only).
    - These attempts must have been conducted in the last twelve (12) months.
- For full details of Kimberley DAMA LMT requirements, [click here](#) (brochure in the 'Resources' area):
  - Note when reading this information that the Kimberley is a '**Category 3 Region**');
  - IMPORTANT - Note in the LMT Fact Sheet that the advertisements must contain specific information to be acceptable, including whether the job being full-time, job location, duties, salary (or salary range), among others.
- Note that aside from the Kimberley DAMA endorsement request, this evidence of LMT will also need to be provided at time of requesting the labour agreement and also at time of nominating each individual Overseas Worker under the agreement.



## ITEM 7

### SUMMARY OF THE RECRUITMENT ATTEMPTS AND OUTCOMES

**Provide here, a summary of the outcomes of your Labour Market Testing (LMT) for each occupation.**

- Your summary should include:
  - Name of advertising medium, dates and duration of advertising;
  - Number of applicants including:
    - How many were Australian citizens or permanent residents, and how many were Overseas Workers;
    - How many were shortlisted/interviewed;
    - How many were recruited;
    - For those assessed as unsuitable, brief reasons why.
  - Any additional comments regarding your broader attempts to fill the positions with Australians.
- You may provide the information in your own format, however a LMT summary template (optional) is accessible in the [EKCCI website here](#) (in the 'Resources' section).

## ITEM 8

### SALARY INFORMATION

**Provide here, description/evidence of how you determined the proposed salary (called the Annual Market Salary Rate, or AMSR), for each occupation sought.**

- Clear advice on determining AMSR is accessible [at this link](#).
- Note that the AMSR advice in the link is broken into three topics:
  - Where there is an equivalent Australian worker;
  - Where there is no equivalent Australian worker but there is an enterprise agreement or industrial award;
  - Where there is no equivalent Australian worker, agreement or award.
- Note that industrial awards only indicate the minimum salary (not the market salary or AMSR for the EK region), and often do not include managerial level roles.
- Note that if your Labour Market Testing (LMT) is not advertised at the proposed salary (or salary range), you may need to undertake the LMT again.

## ITEM 9

### TSMIT CONCESSION TABLE (IF SEEKING A TSMIT 'SALARY' CONCESSION)

Provide here, a completed Kimberley DAMA Salary Concession Table, only if you are seeking access to the TSMIT (salary) concession.

- This table is accessible in the [EKCCI website here](#) (in the 'Resources' section).
- Refer to the Kimberley DAMA Information Guide to learn about the TSMIT concession.

## **ITEM 10**

### **SAMPLE EMPLOYMENT CONTRACT**

**Provide here, a copy of a sample employment contract that will be offered to the overseas worker/s once identified/recruited.**

- This might also be a recently signed contract if you have already identified the Overseas Worker/s.

## ITEM 11

### IMAGES OF THE BUSINESS

**Provide here, 3-6 images that depict the size, scale and nature of your Business.**

- Examples:
  - A farm, for example, might include an image from Google maps with the property outlined, images to depict the size and nature of operations, an image of the packing shed (if any), etc.
  - A restaurant, for example, might include images of the dining/bar area, of the kitchen, and of the menu, etc.
- If not already provided, a direct link to more images such as in your website or FaceBook page can be useful.

## **ITEM 12**

### **LETTER FROM ACCOUNTANT (OPTIONAL)**

**Provide here, a letter from your accountant regarding how viable the Business is (optional but recommended for small or relatively new businesses).**

- The EKCCI needs to be satisfied that the Business is viable and able to sustain/remunerate the overseas workers sought:
  - The EKCCI may ask for a letter from your accountant, or other information, if the Business viability is not clear or obvious – this is more likely to be required for very small or for relatively new businesses;
  - It is up to you if you wish to provide this information up front or wait to be asked.