

Two Decades of Statutory Adjudication

Chow Kok Fong
Friday 23 May 2025



Conceptual inspiration

The Latham Report (1994)

Chapter 9 “Dispute Resolution”

in Sir Michael Latham's Report, *Constructing the Team*, HMSO 1994

Key Findings

Adversarial Culture

Inefficiency and conflict

Over-reliance on litigation

Recommendations

Partnering and collaboration

Standard forms - NEC

Adjudication – fast track dispute resolution

Cash flow crunch arising from disputes hinders construction productivity. The objective was to “reduce the amount of ***time, money and other resources wasted on disputes ...***”

Lord Walker of Gestrinhorpe in *Reinwood Ltd v L Brown & Sons Ltd* [2008] UKHL12 at [15]



In Singapore, the SOP regime was the product of a succession of financial crises in Singapore

Asian Financial Crisis

Beginning in July 1997, this raised fears of a global economic meltdown due to financial contagion

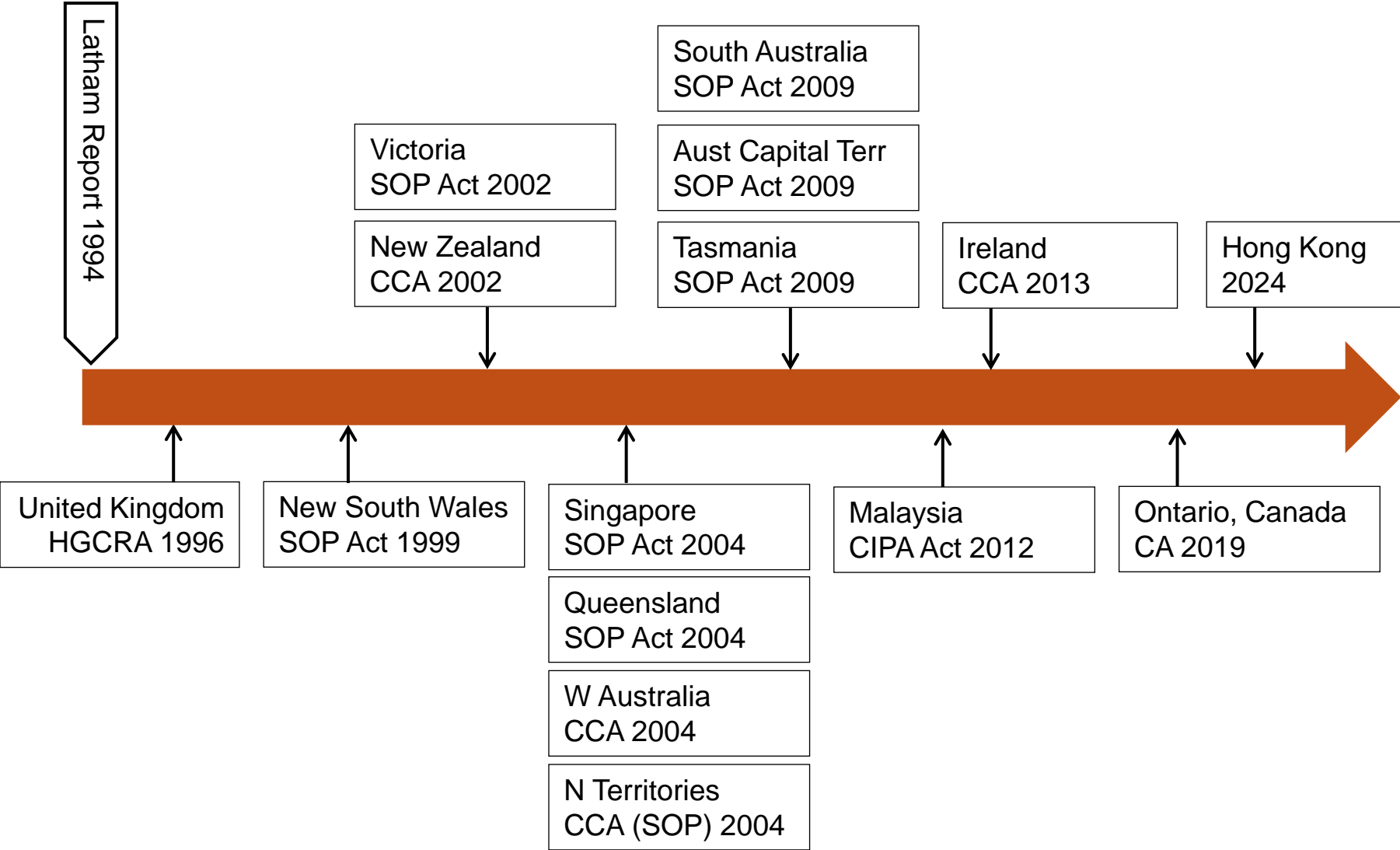
September 11 Attack

A series of 4 coordinated terrorist attacks by al-Qaeda on the morning of Tuesday 11 Sept 2001

2004 Tsunami

Third largest earthquake scale 9.0 in Sumatra devastated many economies in Asia

Singapore was among the first few countries to proceed with the regime



Structure of the Singapore Regime

SOP Act

Building and Construction Industry Security of Payment Act (Cap 30B, Rev ed 2006). Enacted in 2004 but came into force on 1 April 2005

SOP Regulations

Building and Construction Industry Security of Payment Regulations (Cap 30B) made pursuant to section 41 of the Act. Amended in December 2012

SMC Adjudication Procedure Rules

Pursuant to s 24(8)(e) of the Act. The Court of Appeal has upheld SMC's promulgation of Rule 2.2: *Citiwall Safety Glass v Mansource Interior* [2015] (No. 2)

As the sole ANB in Singapore, there is a strong social mission in SMC's work

AA filings

Service of
Documents on
Parties


Adjudicators
Accreditation

Adjudicators
Appointment



Exceptional reception during the first 10 years...wide range of dispute amounts

Smallest

 \$1,872 (2016)

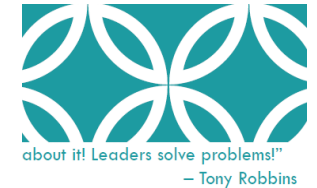
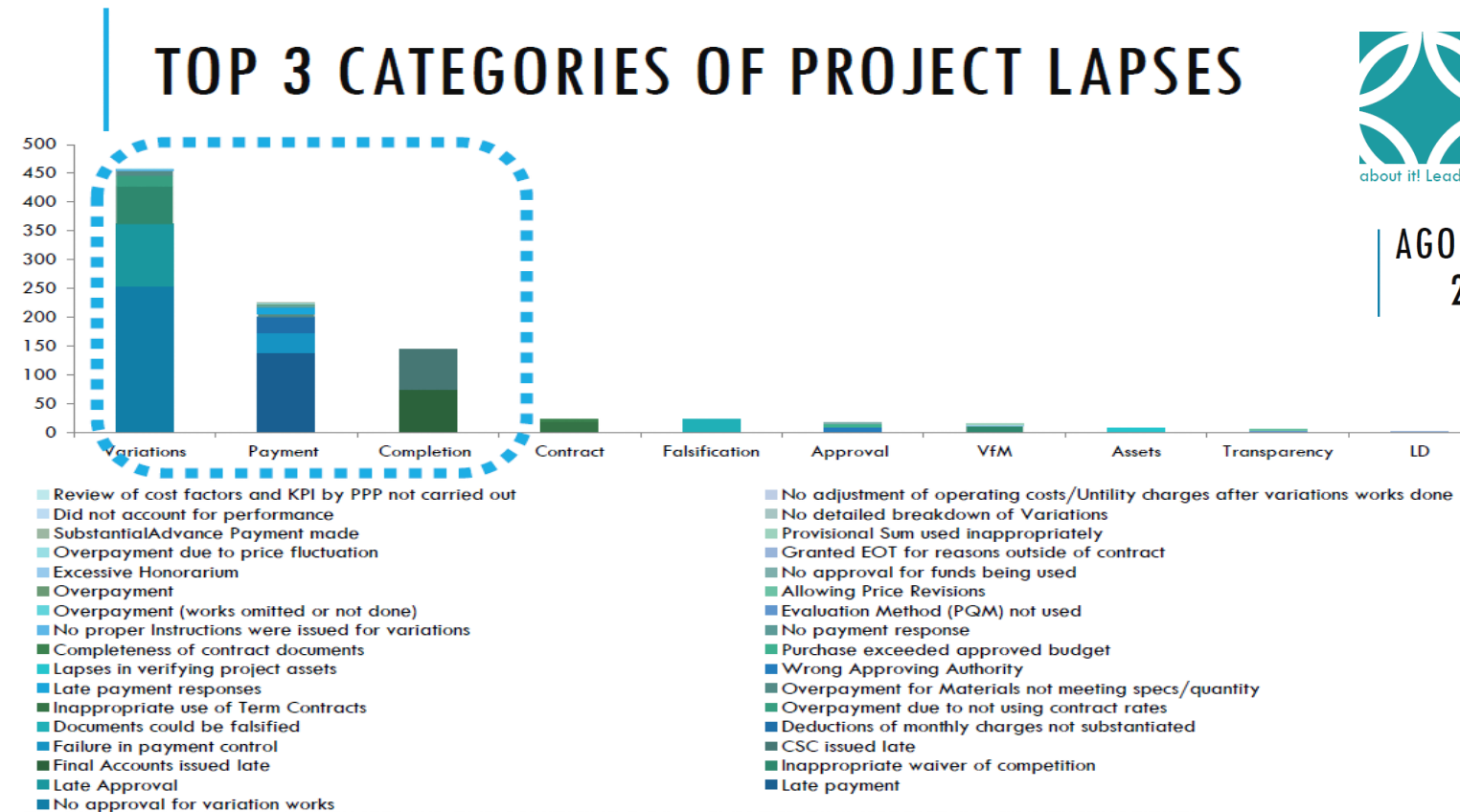
Average

 \$256,177

Largest

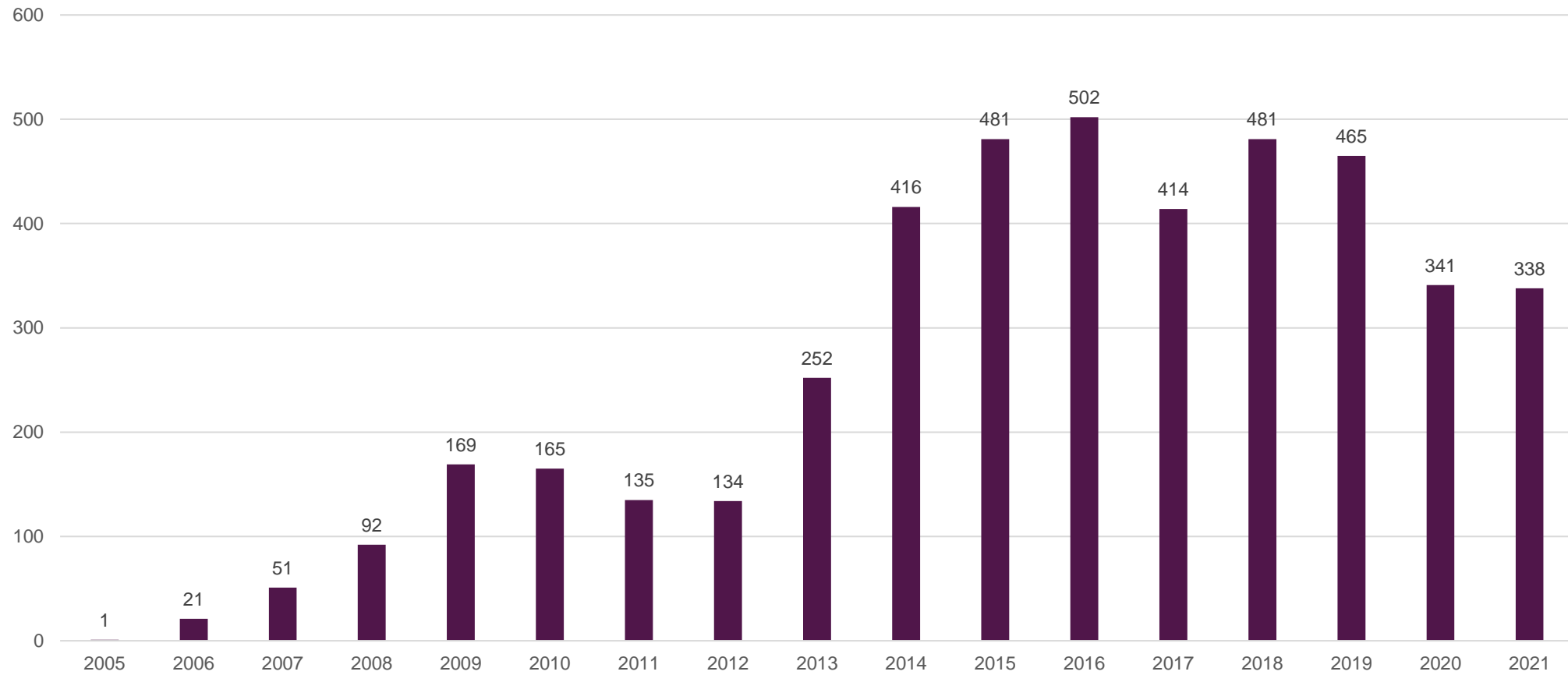
 \$260.3 million (2012)

However, Payment lapses within the industry continue to persist right until 2016



**AGO FINDINGS
2010-2016**

Workload peaked in 2015-2017 before now settling to around 300 cases per year



Effect of the 2018 Amendment Act Section 17(3)

Smaller claimed amounts

Most claims are between
\$50,000 to \$1 million

Directs focus to downstream disputes

Subcontractors, suppliers
and consultants

Filtering of setting aside applications

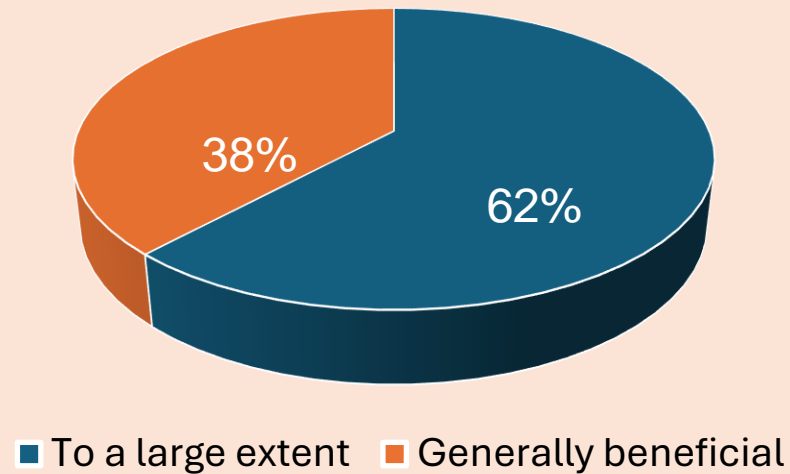
Need to go through the
adjudication review
process



Survey of 42 respondents suggest that reception is still positive

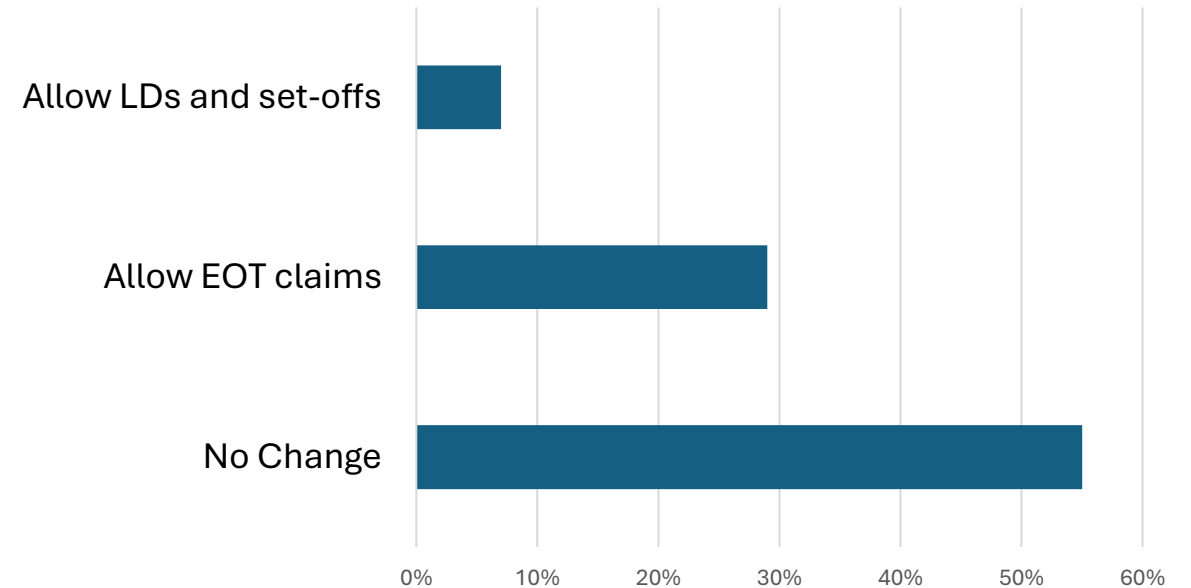
Issue 1

62% says the Act is very beneficial



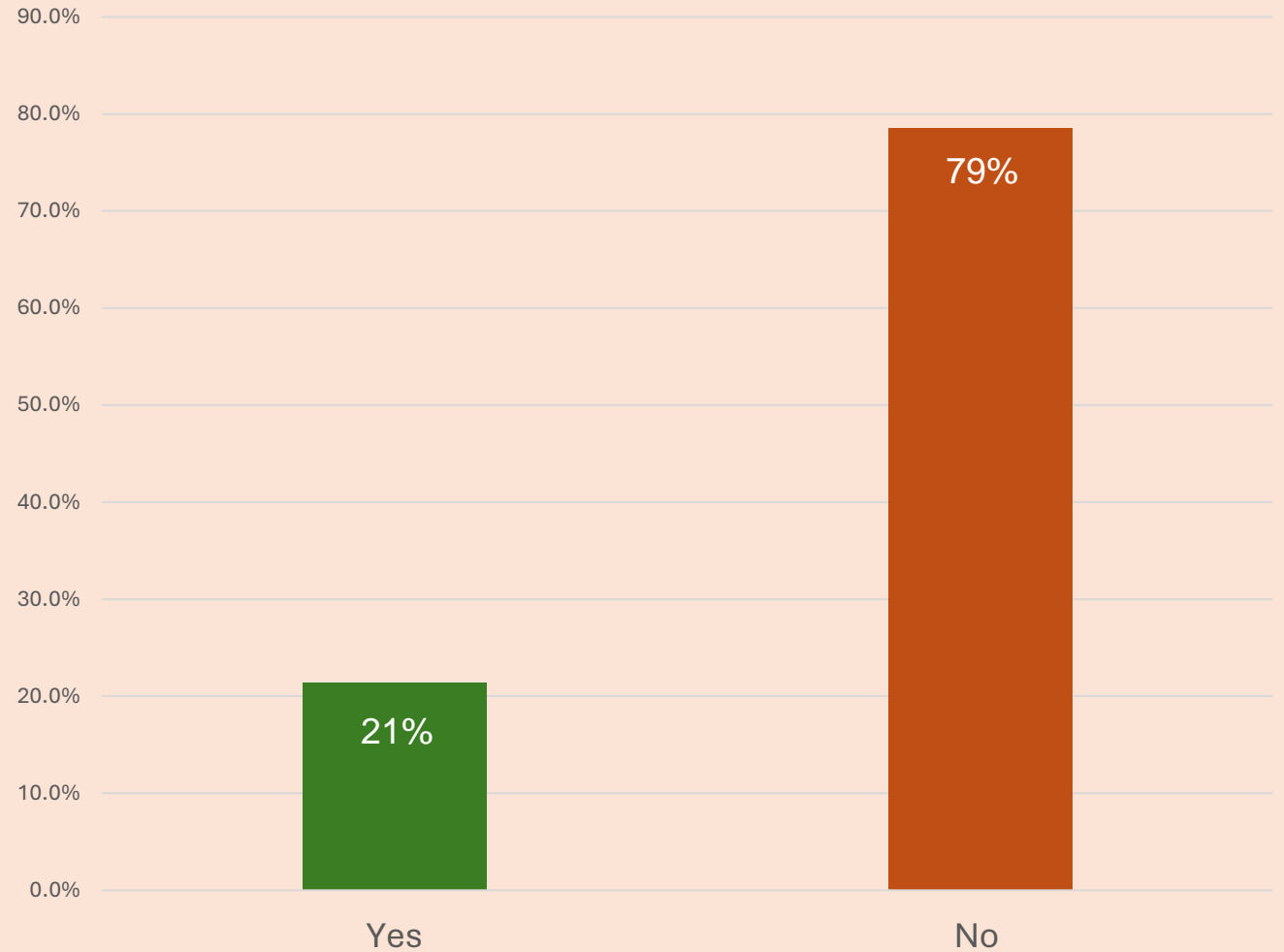
Issue 2

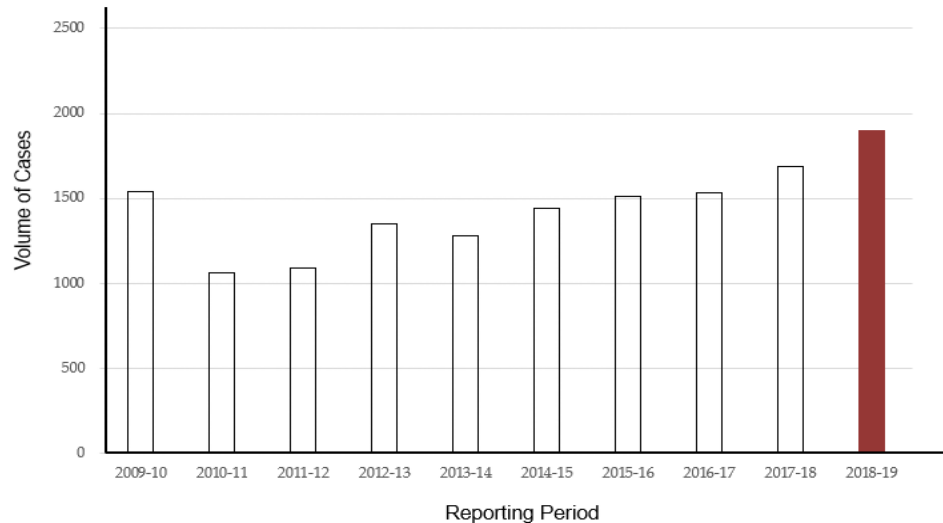
Should we change or keep section 17(4)



**Some regimes allows
parties to choose their
adjudicators**

**Feedback here is to prefer
the ANB to appoint**



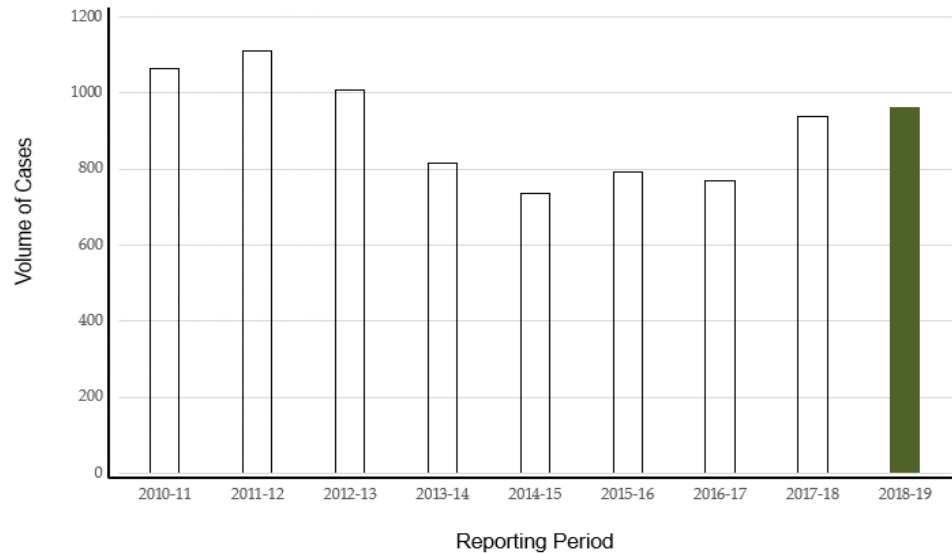


Volume of cases with ANBs has settled to between 1500 to 2000 cases each year. True number is higher because appointments can be made without recourse to the ANBs.

United Kingdom

The quality of adjudicators was described as variable...There are too many adjudicators [and] the training given is not always adequate, but the main problem is that an adjudicator may get an appointment one year then it would be another year till they get another appointment.

A Agapiou (2013) "UK Construction Participant's Experiences of Adjudication", *Proceedings of the Institution of Civil Engineers (Management, Procurement and Law)*, Vol 166, Issue MP3, p 141



Between 2010 and 2019, the volume of varied between 600 to 1100 cases each year.

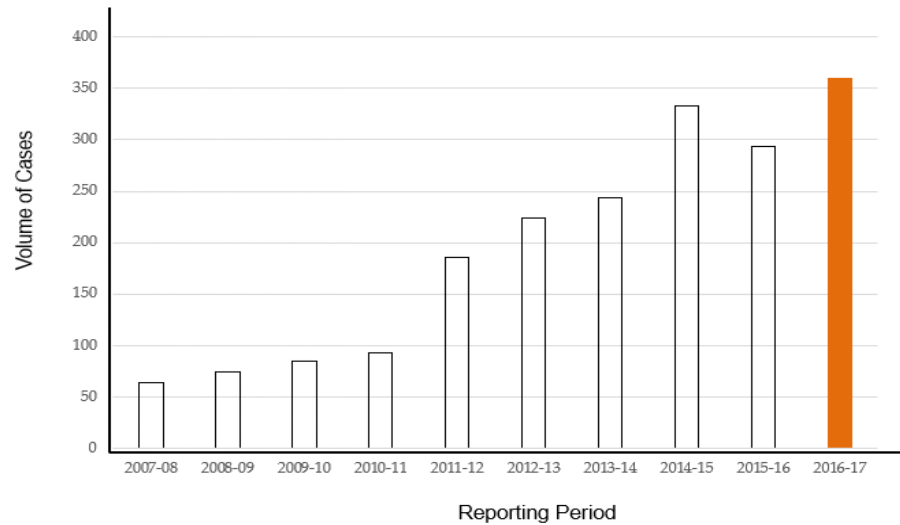
New South Wales (East Coast Model)

...the claimant is inevitably drawn towards “claimant sympathetic” ANAs. This has led to intense competition for work between private for-profit ANAs. As noted by one commentator, work gravitates towards ANAs who demonstrate the most pronounced “pro claimant” track record.

Robert Fenwick Elliot, “Comments on Issues Paper of December 2014” *Review of Building and Construction Industry Security of Payment Act 2009 (South Australia)* at [6]

...There should be instituted a more intensive and detailed training course to be successfully completed before any person can qualify to act as an adjudicator.

Bruce Collins QC, “Final Report of the Independent Inquiry into Construction Industry Insolvency in NSW” November 2012 at p 370.



After hesitant start, cases appear to have stabilised around 300 cases per year.

Victoria

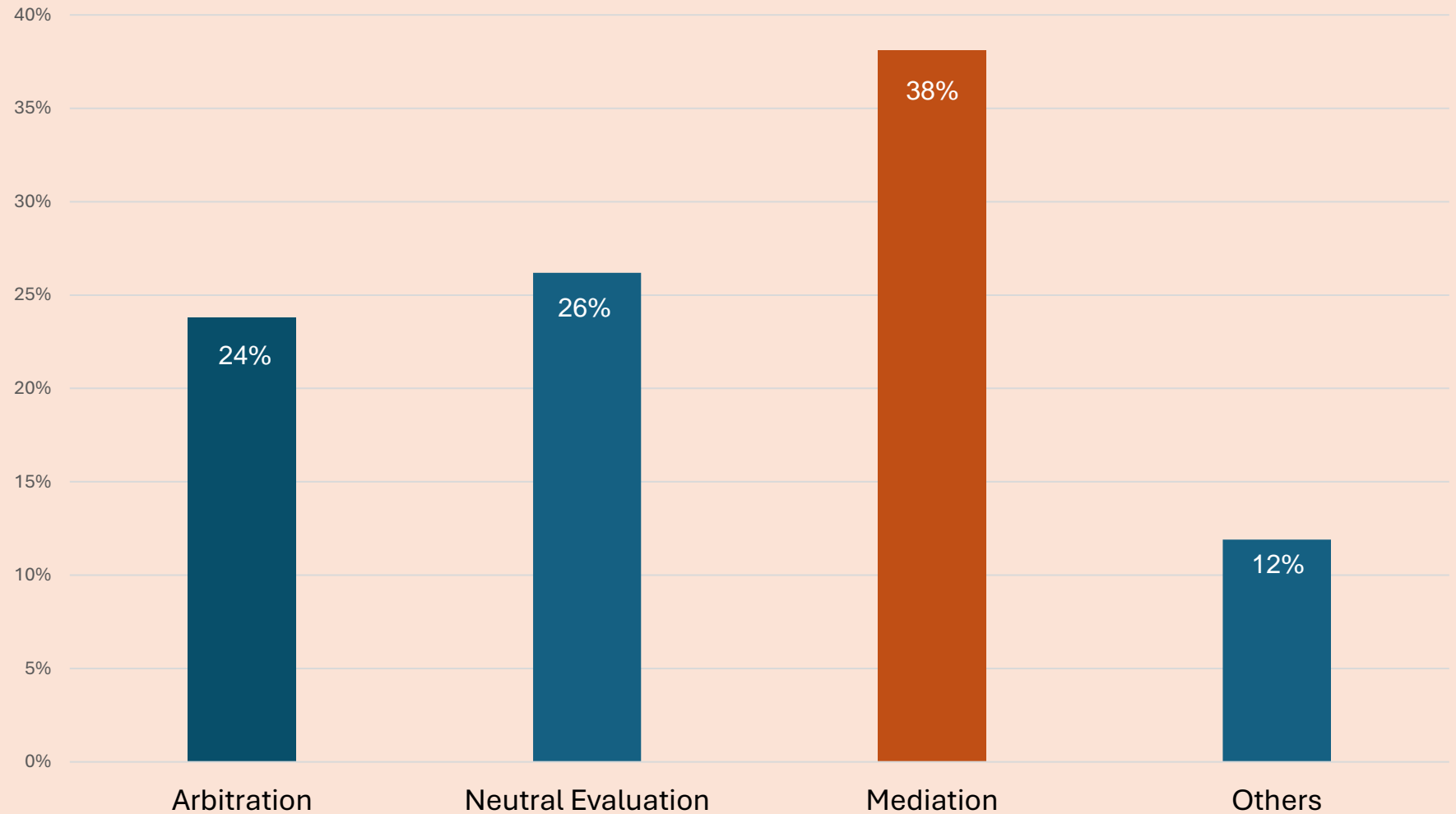
For several years, the volume of referrals was surprisingly lower than expected. Not least is the fact that the structure of the regime is relatively more complex than the regimes in the other states such as New South Wales. The Victoria legislation is also more restrictive in that it provides for certain matters to be “excluded amounts” and therefore could not form part of the payment claim under the Act.

Comparison of qualifications and experiences demanded of adjudicators

Jurisdiction	Academic or professional qualifications	Years of relevant experience	Specific training in adjudication	Requirement for mentoring or examination
United Kingdom	Not specified	Not specified	Not specified	Not specified
New South Wales	Required CoP	10 years CoP cl 6.4.1a.2	Required CoP cl 6.6	Required CoP cl 6.7
Queensland	Preferred but not specific	Preferred but not specific	Required Rigorous	Required Reg Sched 1
South Australia	Required Act s 18; Reg 6(b)	Not specified	Required Reg 6(a)	Required Reg 6(a)
Victoria	Required COA Apps 1, 2	10 or 5 years COA App 2	Required COA, App 2	Implied
Ireland	Required Act, s 8(6)	Not specified	Not specified	Not specified

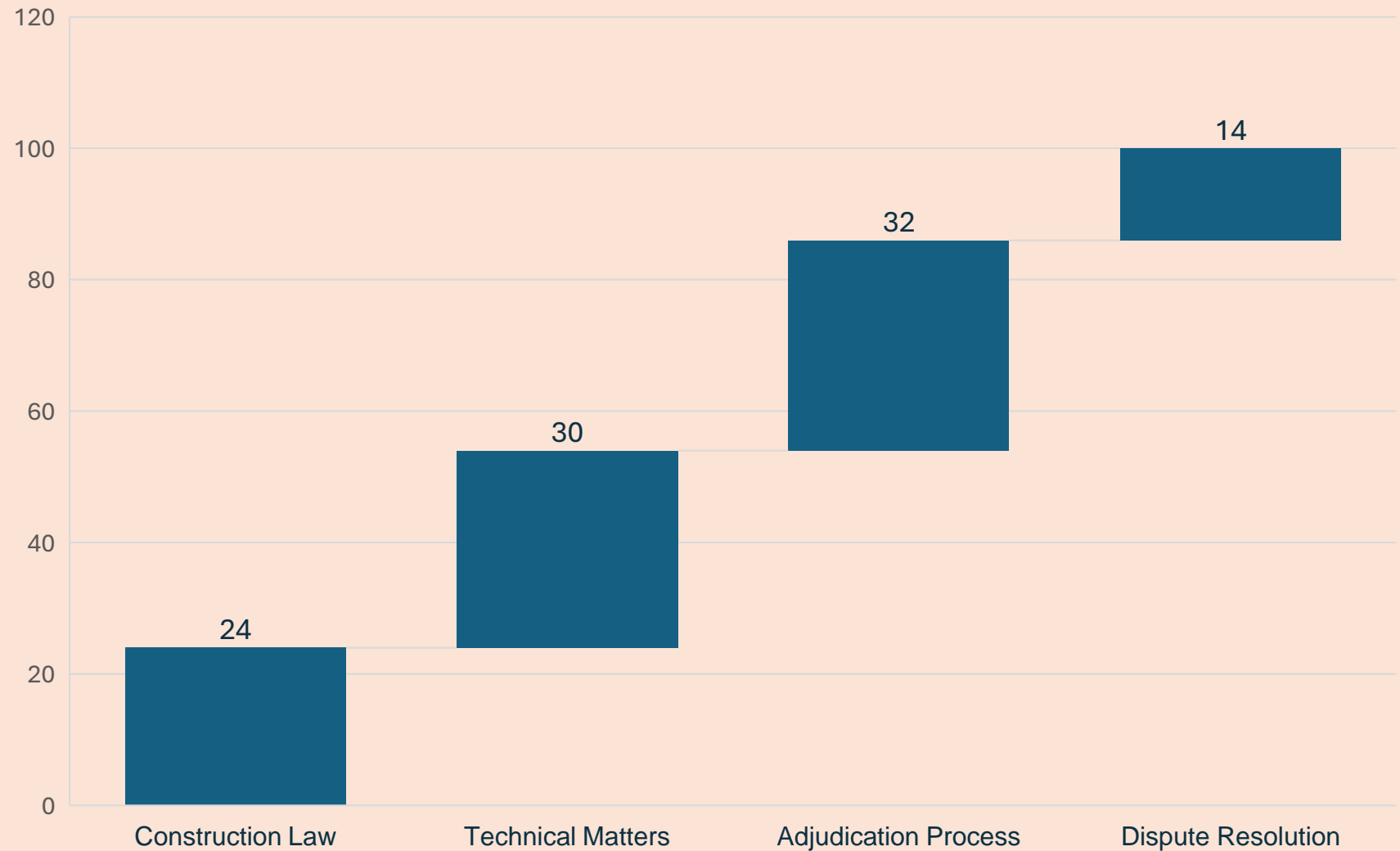
**#1 Developing
adjudication as a
platform
alongside other
Modes of ADR**

**Beyond Adjudication –
What happens when the matter could not be fully resolved in
adjudication. The preference is for Mediation**



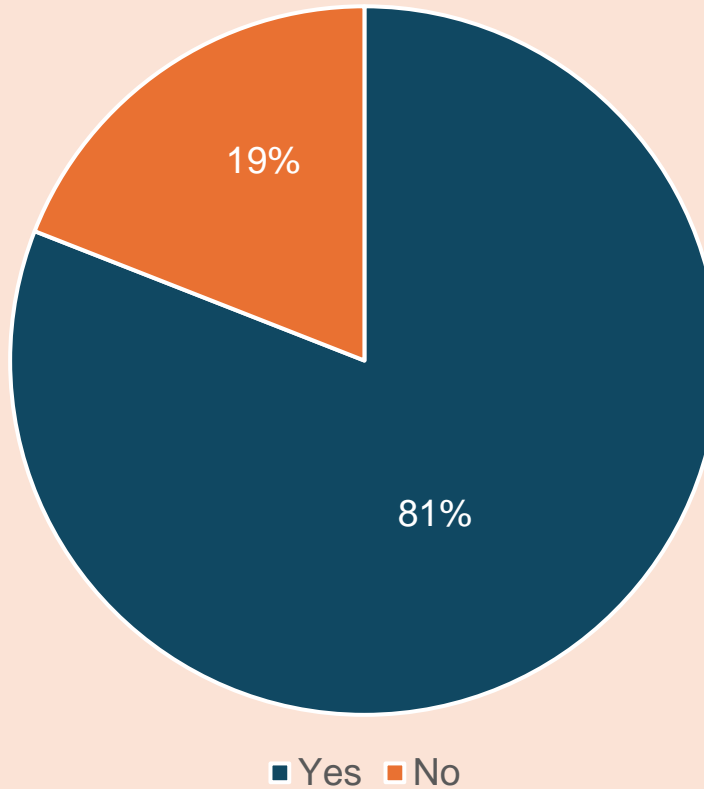
#2 Strengthen core competencies of adjudicators

Feedback on core competencies parties value



To raise standards of
adjudicators

81% thinks adjudicators
should undergo
mentoring



#3 Preparing for Digitalisation of Adjudication

Supporting Adjudicators

AI powered adjudication assistants

Claim summaries, key issues; possible precedents

Virtual site inspections

Works assessment.
Reduce physical site visits

Natural language processing

Faster document identify terms and inconsistencies

Parties preparing for adjudication

Smart contracts

Auto-generate SOP claims by linking to project milestones

Digital Twin and BIM

Provides real-time progress data and claim verification

Predictive Analytics

Predict payment delays and suggest early interventions

Example of construction specific AI platform



3 Million Words Generated

**Library of claim and
defence narratives**

Legal expertise required to check AI generated templates and anticipate opposing case.

e.g. interpretation of “agreement on quantum” under section 17(3)



75% Efficiency Gain

**Streamline claim
documentation**

Organize records, automate documentation processes, and ensure compliance with contract terms.

SOPA procedural compliance



10,000+ Records Preserved

**Protect project history
records**

Notifications and records on agreement on quantum for purpose of section 17(3)



Cut Resolution Time by 60%

**Research and review
for negotiation prep**

CBA for mediation, NE and arbitration for claims outside SOPA,

Investing in training of AI assistants to mimic specific project needs and expertise areas