

# Parliamentary Inquiry into payment for subcontractors

Briefing to the Environment and Planning Committee  
29 May 2023

# Overview of Presentation

1. Role of the Victorian Building Authority (VBA)
2. The VBA's functions and roles under the *Building and Construction Industry Security of Payment Act 2002* (SOP Act)
3. Application of the SOP Act
4. Overview of the adjudication process
5. Framework for the regulatory oversight of the ANAs management of the adjudication process
6. Publication of Adjudication Activity Data
7. Adjudication Activity Data: Numbers
8. Adjudication Activity Data: Amounts
9. Cost of adjudication

# 1 Role of the Victorian Building Authority



**The Victorian Building Authority (VBA) regulates building and plumbing practitioners by monitoring compliance with relevant laws, standards and regulations.**

**The VBA is responsible for issuing licences, conducting inspections, handling complaints and promoting safe and efficient building practices. It aims to protect communities and maintain high standards of quality and safety in the built environment.**

## 2 VBA's functions and roles under SOP Act

### **The VBA's statutory functions under the SOP Act:**

- authorise nominating authorities (ANAs)
- maintain a register of ANAs
- maintain a record of adjudication determinations
- publish (non-identifying information) in adjudication determinations
- keep under regular review the administration and effectiveness of the Act and Regulations

### **The VBA's regulatory functions and roles:**

- regulatory oversight of the ANA's management of the adjudication process
- provide information about the SOP framework

# 3 Application of the SOP Act



## Covered

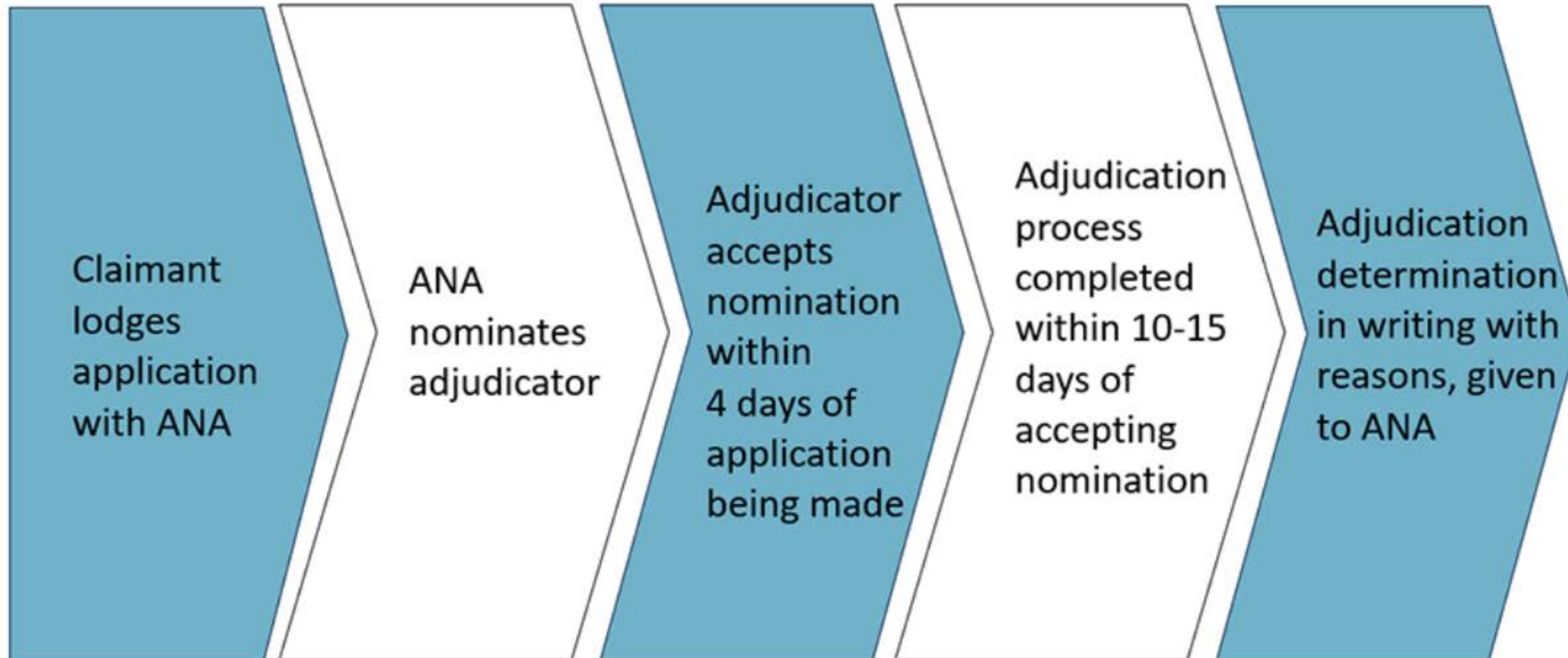
- ✓ Contracts to supply related goods or services
- ✓ Non-residential and residential building (with some exceptions)
- ✓ Civil engineering
- ✓ Demolition
- ✓ Electrical
- ✓ Hire of plant and equipment
- ✓ Landscaping
- ✓ Maintenance
- ✓ Mechanical/air-conditioning
- ✓ Plumbing
- ✓ Painting
- ✓ Plastering
- ✓ Supply of building materials
- ✓ Professional services (e.g. design, architecture, surveying)



## Not Covered

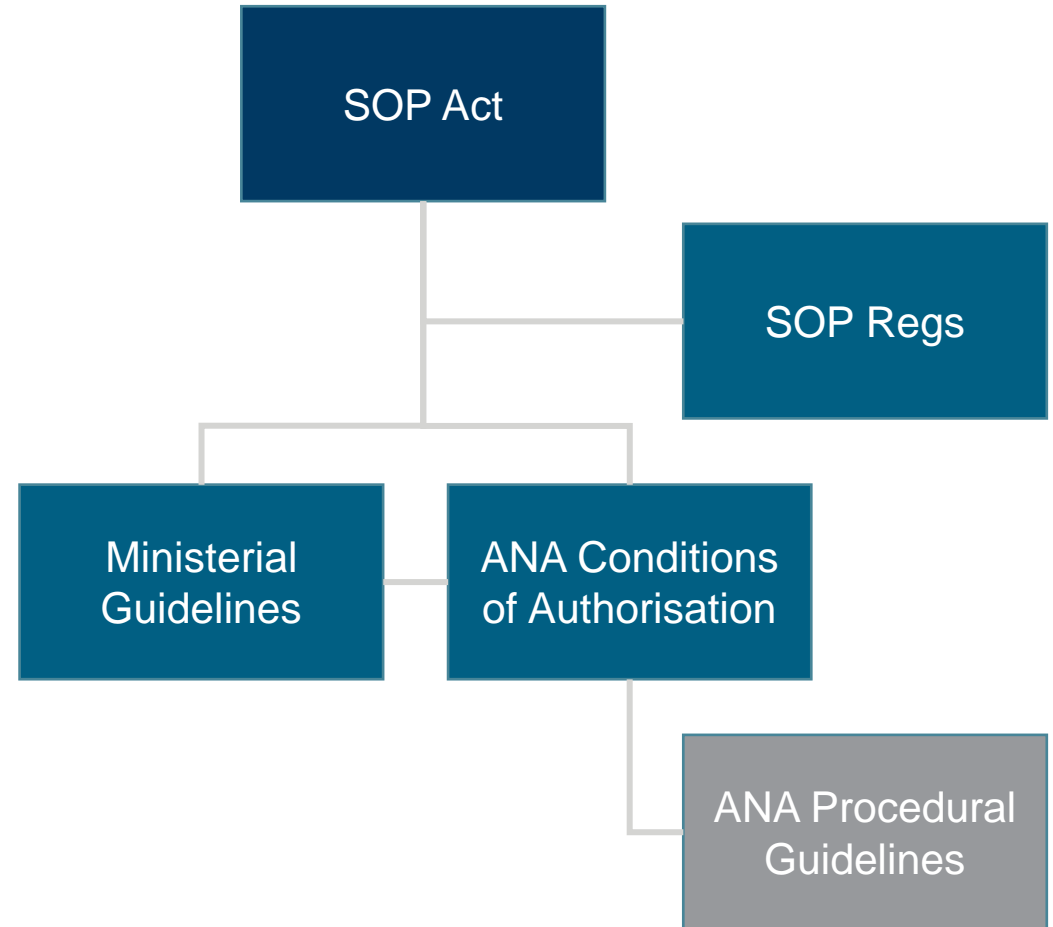
- ✗ Domestic building contracts between a Builder and the home owner.
  - ✗ These are covered by the Domestic Building Contracts Act 1995
  - ✓ Contracts between the home owner's building contractor and sub-contractors **are covered**
- ✗ Contracts for mining, oil and gas exploration
- ✗ Employment contracts
- ✗ Contracts that are not based on the value of the work
- ✗ Contracts that are part of a loan agreement guarantee or a contract insurance

# 4 Overview of the adjudication process

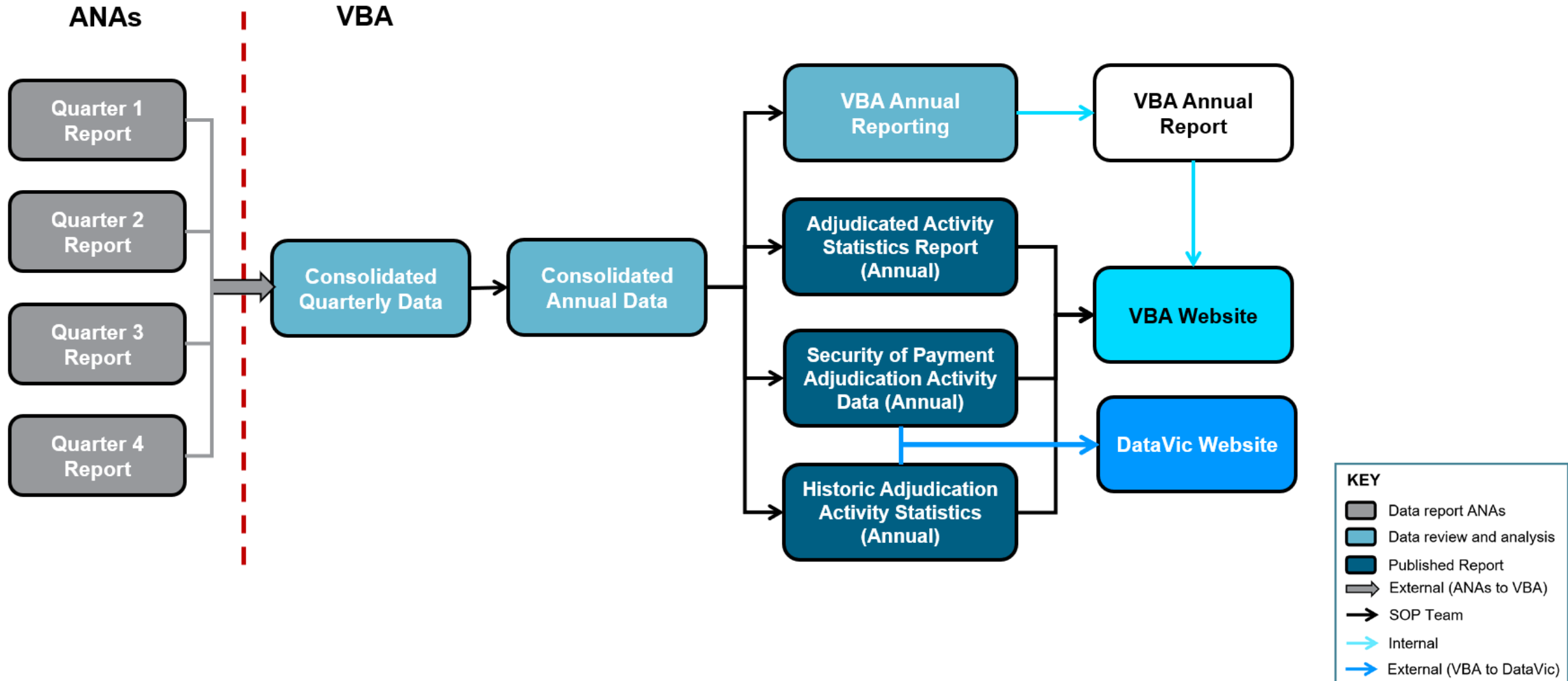


# 5 Framework for the regulatory oversight of the ANAs management of the adjudication process

- Currently four (4) ANAs authorised in Victoria
- Current authorisation period commenced on 1 July 2022
- Authorisation is for a period of up to 3 years
- ANAs are required to demonstrate their ongoing compliance with the ANA Conditions of Authorisation
- ANAs have specific compliance and reporting requirements
- Current authorisation period expires 30 June 2025



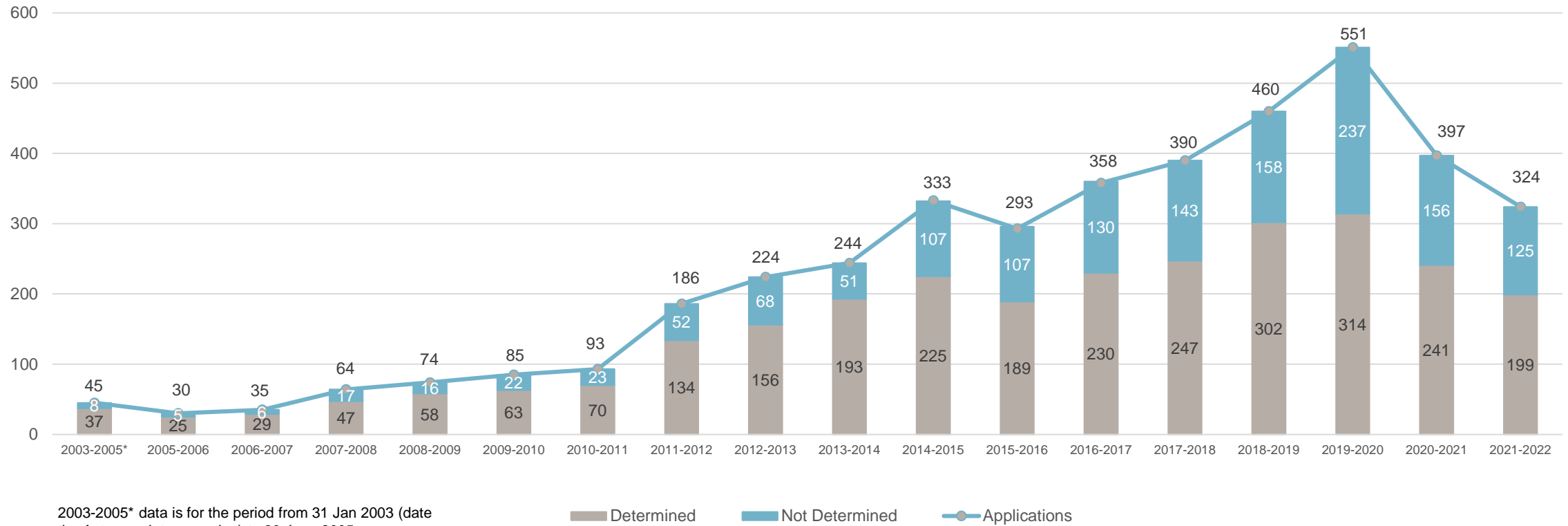
# 6 Publication of Adjudication Activity Data





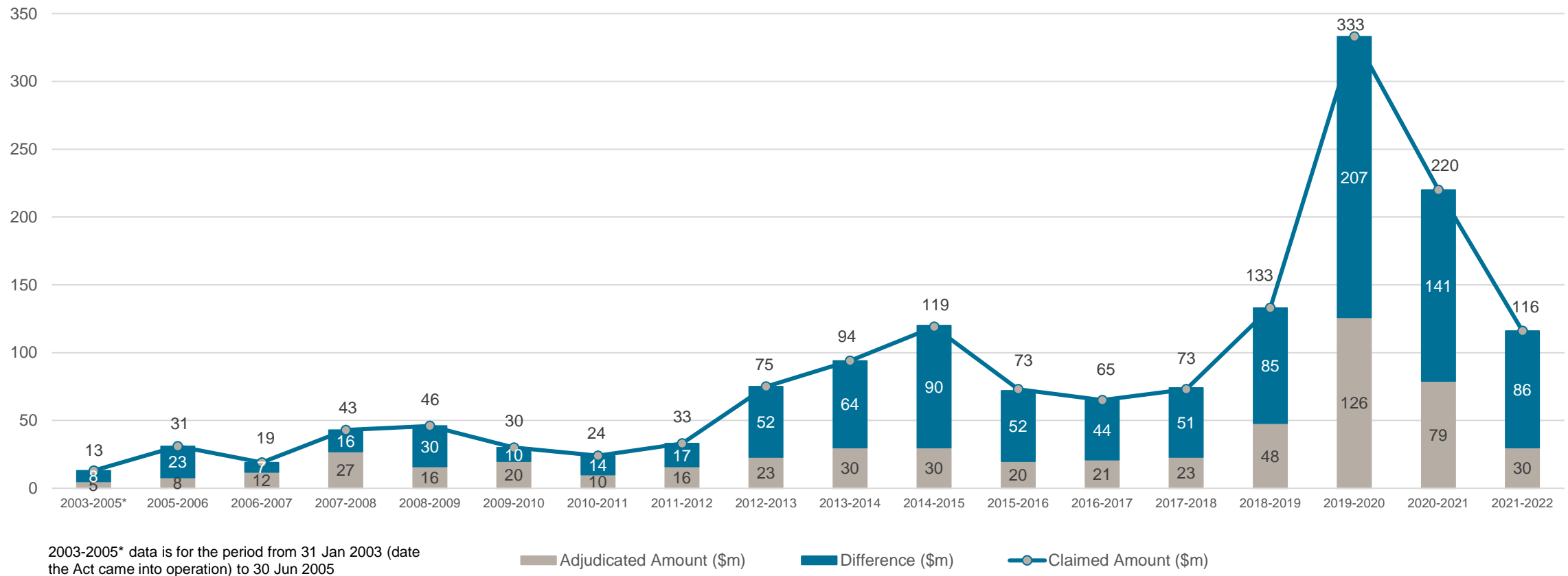
# 7 Adjudication Activity Data: Numbers

SOP - Adjudication: No. of Applications, Matters Determined, Matters Not Determined



# 8 Adjudication Activity Data: Amounts

SOP - Adjudication: Claimed Amounts and Adjudicated Amounts (\$million)



# 9 Cost of adjudication

The total cost of an adjudication is made up almost entirely of the Adjudicator's fee

- None of the ANAs charge an application fee
- One ANA charges a fee for an adjudication certificate

Fee share arrangement between ANA and Adjudicator – average ratio 20:80

Adjudicator's fee depends on the complexity of the issues to be dealt with and the quality and volume of the paperwork and submissions put to the Adjudicator

## Range and Average Adjudicator fees for completed applications by claim range (2021-2022)

Range of claimed amounts (\$)	Number	Range of Adjudicator Fee (\$)	Average Adjudicator Fee (\$)
< 24,999	132	0 – 4,091	750
25,000 – 99,999	90	0 – 9,680	2,500
100,000 – 499,999	72	0 – 35,420	8,500
500,000 – 999,999	13	0 – 32,670	8,500
1,000,000 – 9,999,999	7	18,818 – 52,800	16,500
>10,000,000	2	0 – 47,455	24,000

Q & A

