



Australian Government

IP Australia

February 2023

PBR Reform Program

Qualified Persons (QP) Workshops
Slide Presentation



Contents

The following slides and information were presented during IP Australia's November-December 2022 QP workshops.

Also included is an overview of the activities that were run over the day. Workshop results have been summarised in a separate report.

Messages from IP Australia

- Executive welcome
- PBR Reform Program
- Indigenous Knowledge
- PBR IT modernisation
- Policy and legislation
- Forms and paperwork

Morning workshops

- Overview of the QP cohort
- Ranking research themes
- Feedback about the current process

Afternoon workshops

- How might we?
- Brainstorming ideas for the future
- Further discussions

More resources and information

Messages from IP Australia

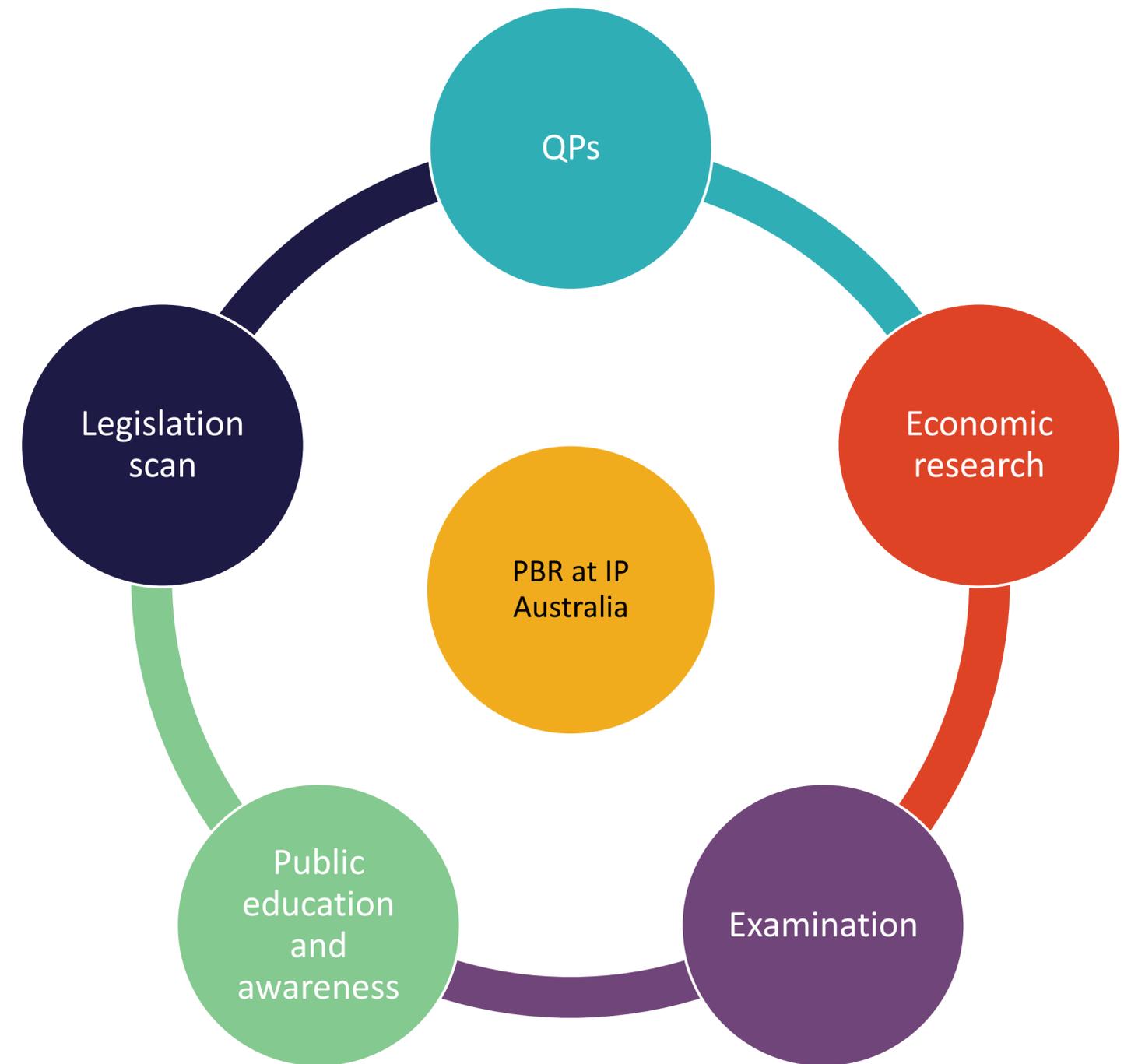
Executive welcome

- The workshops were opened by a member of IP Australia's leadership team: Paula Adamson (Deputy Director General and Registrar of PBR), Rob Crispe (General Manager of the Patent Oppositions, Business Improvement & PBR Group) or Edwina Vandine (Chief of PBR).
- The welcome address emphasised the importance of PBR as well as the momentum building and support from Government for PBR.
- IP Australia's executive team recognise there's plenty to do to ensure the system is up to date, with some big questions to explore. Not shying away from a challenge, we are progressing an ambitious agenda of PBR-related work across our agency.

Overall, IP Australia's vision is to provide a world leading IP system that builds prosperity for Australia. From a PBR perspective, the focus is on encouraging the introduction of new varieties to support innovation, productivity, and profitability in agriculture, and for the benefit of society.

PBR Reform Program

- In late 2021, IP Australia established a [PBR Reform Program](#) team to review the PBR system and better understand how it's operating for Australia's plant breeders in today's increasingly competitive and global environment.
- The program's objective is to ensure the PBR system is fit for purpose, supporting plant breeding industries, and connected with the Government's priorities relating to agriculture and growth. More information about our work is on our web page.
- We've published research from over 100 conversations we've had with stakeholders ([full report](#) and [summary](#)) and initial research on the economic impact of PBR ([full report](#) and [summary](#)).
- We are now moving forward with five initiatives:
 1. The QP system (the focus of this workshop series)
 2. Examination
 3. Targeted public education and awareness
 4. Activities coming out of a scan of the PBR legislation
 5. Further economic research to better understand the role of PBR in innovation and commercialisation of new varieties.



Indigenous Knowledge

- Indigenous Knowledge or “IK” is part of IP Australia’s focus on ensuring all Australians are included in the IP rights system and can therefore benefit from great ideas.
- Last year, IP Australia consulted Indigenous stakeholders on changes to the existing IP system that would better support Aboriginal and Torres Strait Islander people to benefit from and protect their IK.
- This included proposals for a disclosure requirement for genetic resources and associated traditional knowledge in both the patent and PBR systems in the future.
- Currently our examiners work with IK subject matter experts, including Aboriginal and Torres Strait Islander staff, to identify and consider uses of Indigenous language in plant variety names in PBR applications.
- This work continues in parallel with the work the PBR Reform Program are doing.

Indigenous Knowledge is an important asset belonging to Aboriginal and Torres Strait Islander people and communities. If you are working with IK in a plant variety, or an applicant is working with IK, consider how to do so respectfully.

There is information on our Indigenous Knowledge IP Hub web page on how to work with IK respectfully, including information on recognition and free, prior, informed consent (FPIC).

<https://www.ipaustralia.gov.au/understanding-ip/indigenous-knowledge-ip>

PBR IT modernisation

- All of the workshops emphasised issues with the PBR IT systems and there was plenty of discussion about what needs to be done.
- IP Australia has already begun a PBR systems project with the aim of modernising existing systems used to administer PBR, including search systems and the Interactive Variety Description System (IVDS).
- The first step (happening now) is to move our internal administration systems into a modern secure platform. This will improve the availability and portability of PBR data so that it can be used to create new services for customers.
- Replacing older supporting technology will improve stability of the current customer-facing systems used by QPs and others in PBR. It will also create a much more stable platform and unlock opportunities for future work improving and replacing those systems.



Policy and legislation

- IP Australia commissioned the University of Queensland (UQ) to explore the evidence base and recommend possible options for legislative change for six longstanding policy issues.
- IP Australia has now published the six independent reports covering the following topic areas:
 1. **Information Notice Scheme**
 2. **Exhaustion of PBR**
 3. **Harvested material**
 4. **Labelling requirements**
 5. **Plant variety names and synonyms**
(including interactions with trade marks)
 6. **Essentially derived varieties (EDVs)**

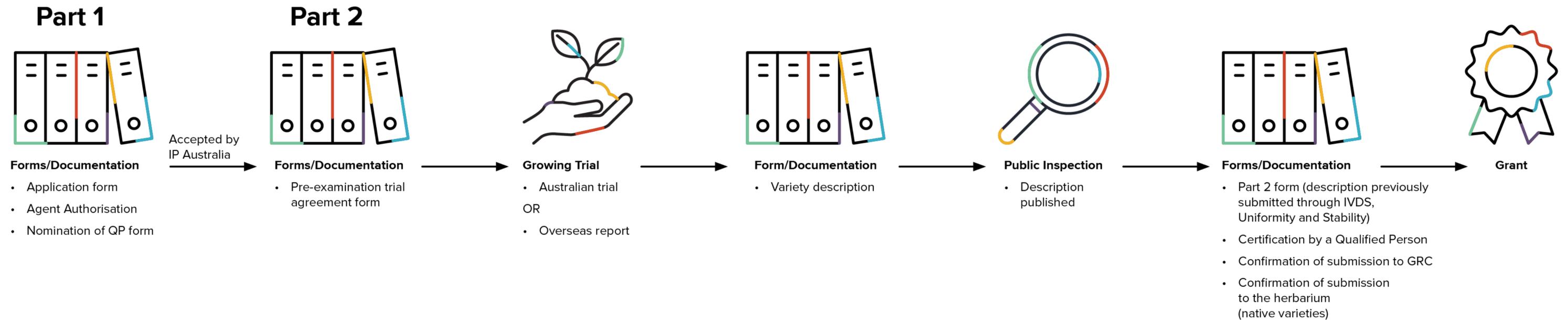
The reports make a number of **recommendations for potential reform to the PBR system. You can read the reports on our website.**

We welcome your feedback on the reports. You can make comments or file a submission through the Consultation Hub on our website.

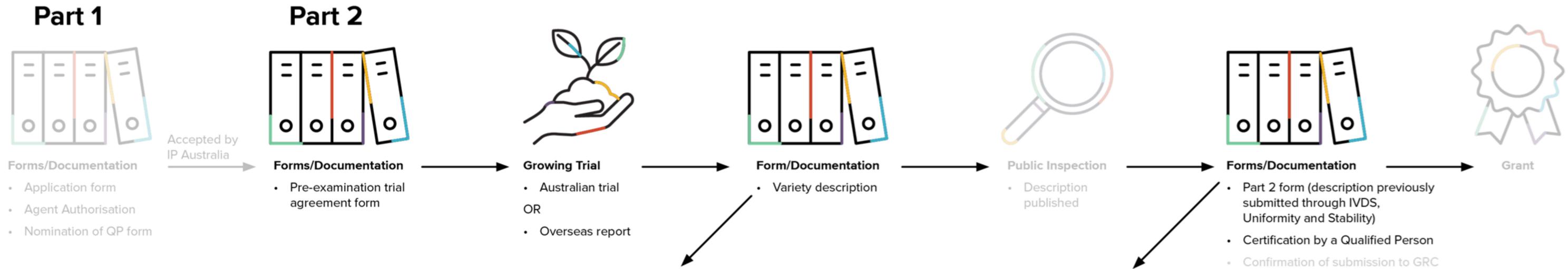
These reports are independent, and we are currently considering the recommendations. The Government has not made any decision on possible PBR reform.

Forms and paperwork

Each workshop included a short presentation from the Chief of PBR (Edwina Vandine) and the Senior PBR Examiner (Andrew Hallinan) focusing on PBR forms and paperwork.



Forms and paperwork: QP involvement and timeframes

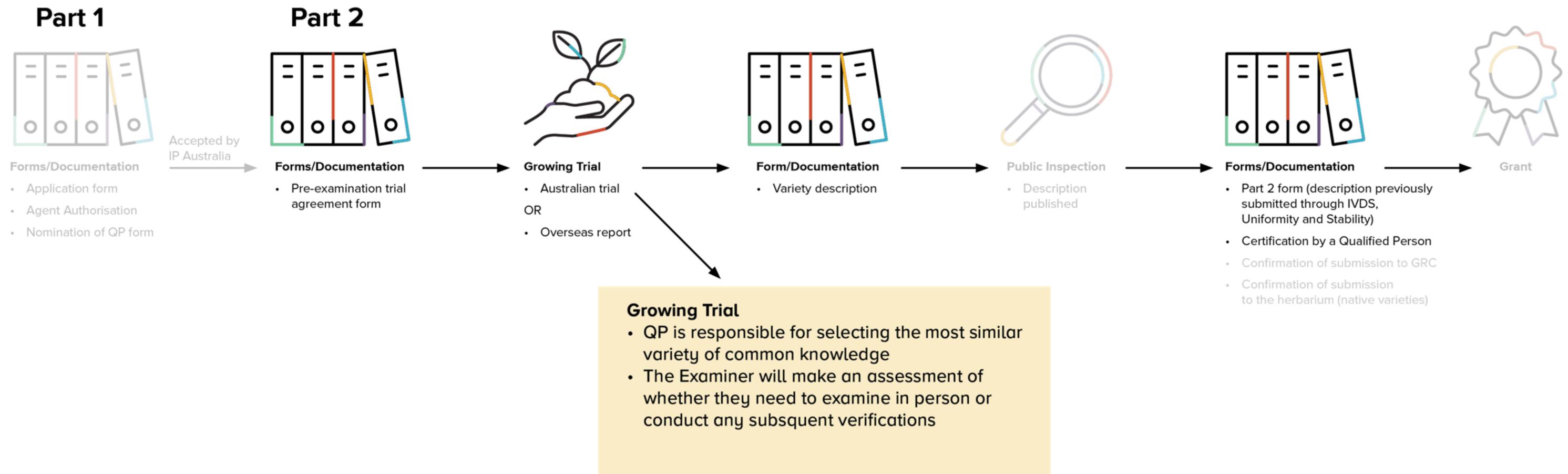


Description
 Must be submitted within 12-months of the Part 1 being accepted (registrar may use their discretion to extend the 12-month deadline)
 (Section 34 of the Plant Breeder's Right Act)

Part 2
 If 12 months have passed since the description was published and the application is not in order for grant provisional protection may cease to apply
 (Section 39 of the Plant Breeder's Right Act)

Submission (native varieties)

Forms and paperwork: QP involvement and timeframes



Forms and paperwork: Pre-examination trial agreement form

The pre-examination trial agreement form was introduced in 2020. IP Australia acknowledges that the introduction and purpose of this form was not well communicated with QPs prior to its launch.

The purpose of the form is to:

- Reduce risk of a trial being found insufficient and requiring a re-trial (and the extra costs this creates for an applicant)
- Ensure QPs/applicants can work towards the 12-month description submission deadline
- Address potential issues arising due to incompatibilities with methodology used to test for DUS
- Allow IP Australia to be satisfied that if the overseas trial is unlikely to meet Australian requirements, there is opportunity for contingencies to be put in place, such as an Australian full/verification trial

IP Australia has begun reviewing PBR related forms internally, including this form. We have received feedback from QPs that the form duplicates information already provided in the Part 1 application (especially in those scenarios where the QP was involved).

If you have any further input or thoughts for us to consider, please continue to provide your feedback:

<https://www.ipaustralia.gov.au/about-us/contact-us/submit-an-enquiry>

Morning workshop session

Overview of the QP cohort

- As of late 2022, there were 183 accredited QPs located throughout Australia and NZ, with 45% classified as consultant and 55% non-consultant (Figure 1a).
- The majority of QPs reside in Victoria and Queensland (Figure 1b).
- Of the 183 QPs, 13% have never been listed on an application (Figure 1c). Historically, this number is even higher at 32%.
- More than half of our QPs are listed on five or less applications. With only a small proportion, 4%, being listed on more than 100 applications (Table 1).

Figure 1a, 1b and 1c: Current QP breakdown, location of QPs, current QP activity

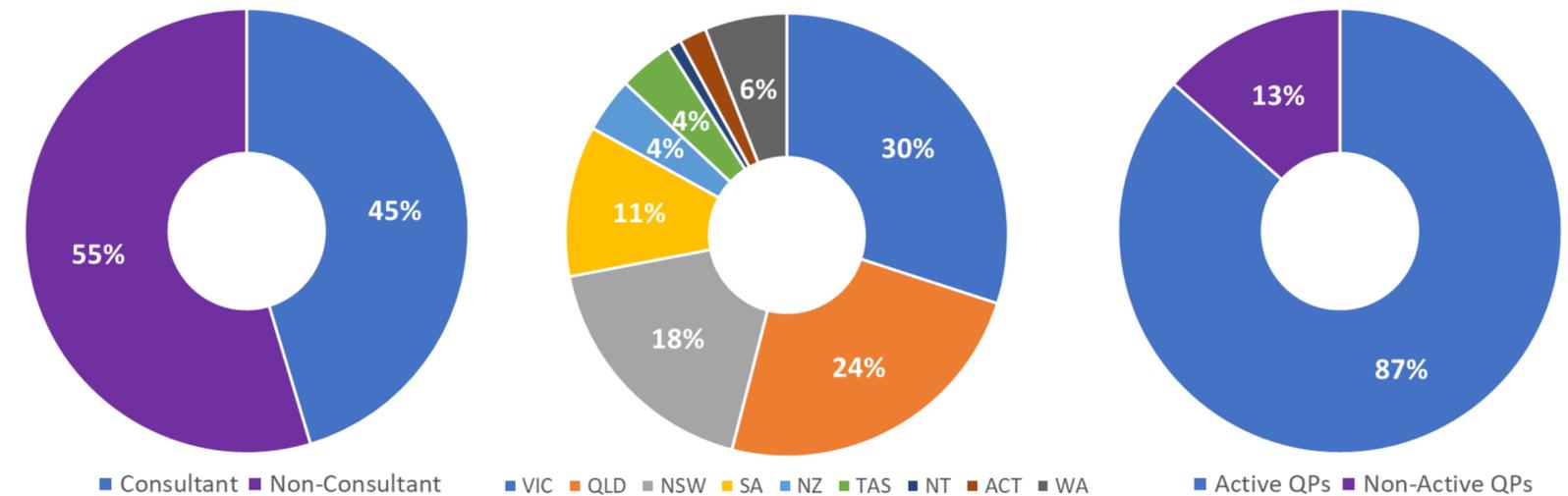


Table 1: Proportion of QPs listed on applications

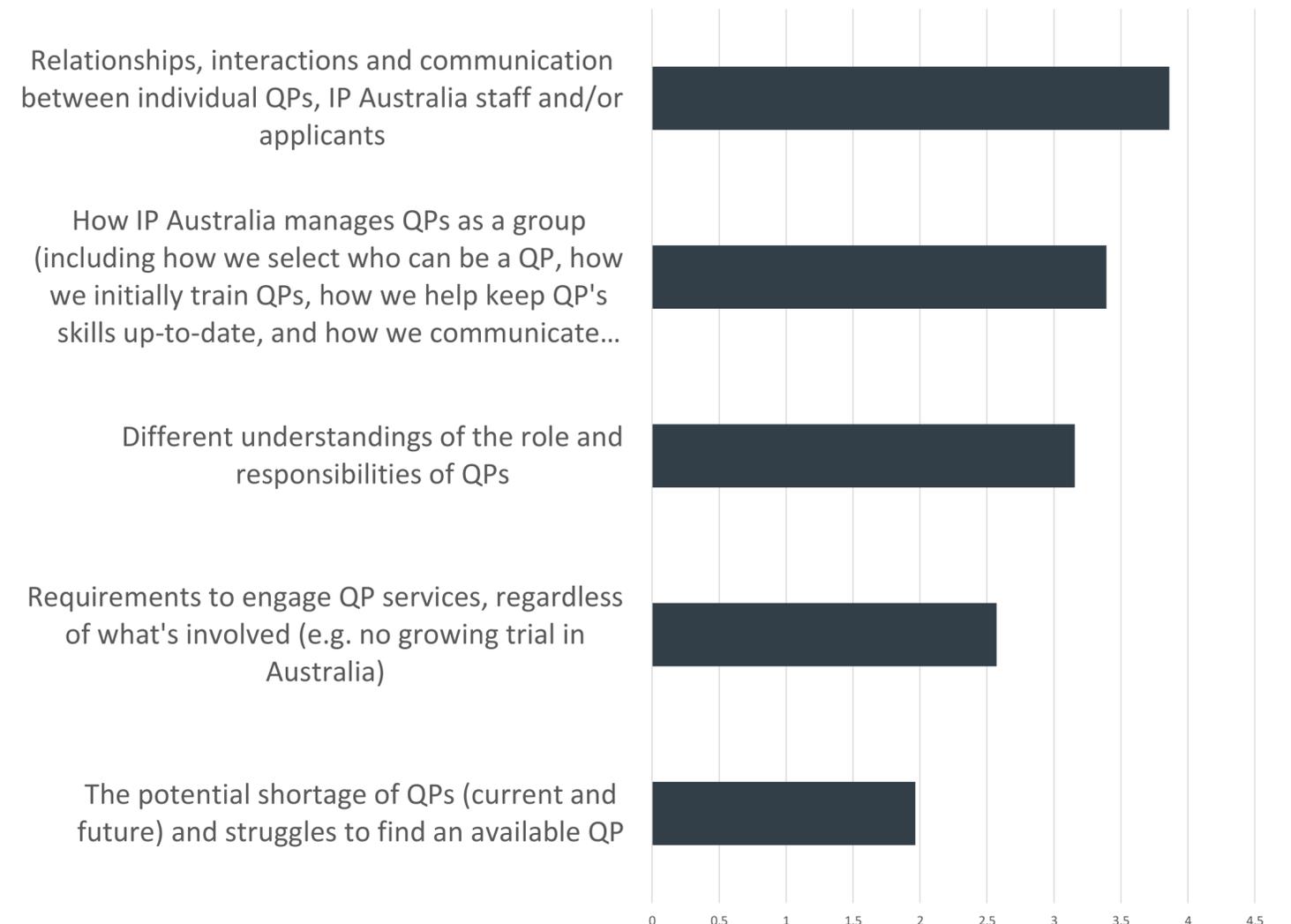
Number of Applications	Proportion of QPs
1	22 %
≤ 5	54 %
≤ 10	9 %
20 +	19 %
100 +	4 %

Ranking research themes

- In our initial research, a number of conversations related to the work of QPs. Conversations took place with many different people involved with PBR, including QPs themselves.
- We distilled these conversations into the following five themes:
 1. Different understandings of the role and responsibilities of QPs
 2. The potential shortage of QPs (current and future) and struggles reported by some prospective PBR applicants in trying to find an available QP
 3. How IP Australia manages QPs as a group (including how we select who can be a QP, how we initially train QPs, how we help keep QPs' skills up-to-date, and how we communicate with QPs)
 4. Relationships, interactions and communication between individual QPs, IP Australia staff and/or applicants
 5. Requirements to engage QP services for every PBR application, regardless of what's involved (e.g. no growing trial in Australia)

We tested these themes in each workshop, and each QP was asked (anonymously, on a digital platform called Slido) to prioritise the themes.

Figure 2: Consolidated ranking of the research themes (score out of 5)



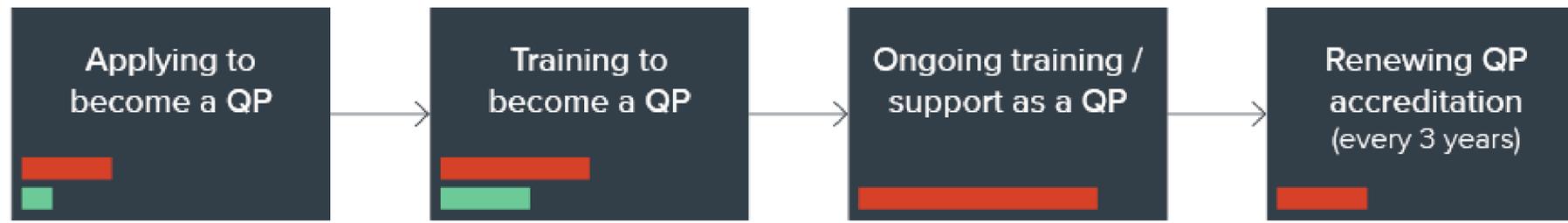
Feedback about the current process

- At each of the workshops, we asked QPs to indicate on a 'process map' where they experience challenges and pain points (with a red post-it note), and where things are working well (with a green post-it note).
- The rest of the morning session was spent discussing the context and examples for each post-it note, and building an understanding of where the challenges and opportunities seem to be, or where experiences and perspectives differed.
- The next slide shows a consolidated heat map of the red and green post-it notes and insights collected across the four workshops.

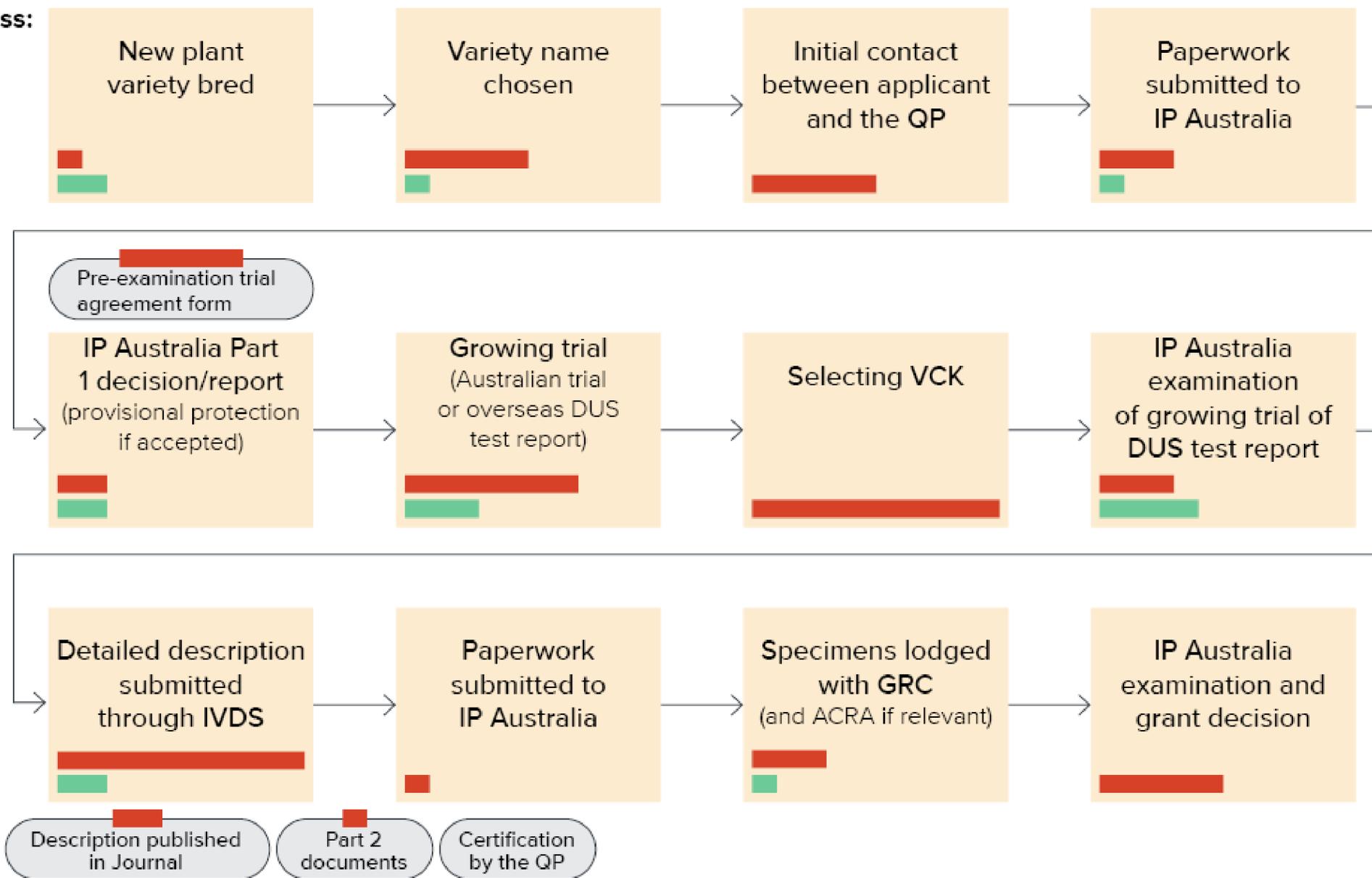
Figure 3: Example of the wall in one of the in-person workshops



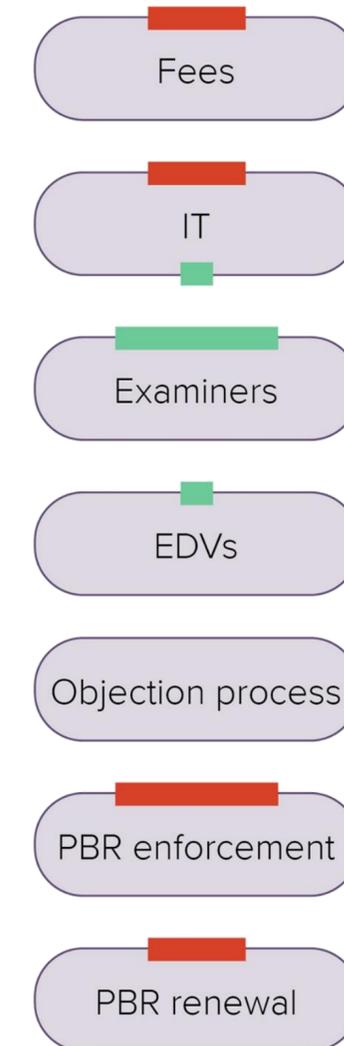
QP Process:



PBR Process:



Other



Afternoon workshop session

How might we?

- Guided by the placement of the red post-it notes, and the depth of discussions each morning, we crafted sets of “how might we...” questions to shift focus into thinking of possible solutions for the issues raised.
- Each workshop generated a unique set/combination of “how might we” questions depending on the groups discussion. Many were very similar and we ended up with a consolidated list of nine.

	How might we...
#1	... improve ongoing training and support for QPs?
#2	... define the requirements to become a QP?
#3	... address challenges in selecting and accessing varieties of common knowledge (VCKs)?
#4	... better capture the information needed throughout the PBR application process?
#5	... improve paperwork and forms across the process?
#6	... improve IVDS to support QPs in their work?
#7	... better connect QPs with applicants and other QPs?
#8	... assist applicants in getting QPs involved earlier?
#9	... build understanding around issues of PBR enforcement?

Brainstorming ideas

- The afternoon session focused on brainstorming ideas in response to the “how might we” questions, and more discussion to flesh out and explore the different ideas people had.
- Through this process, QPs came up with 272 separate ideas across the four workshops.

At the start of each day, we also asked for anonymous responses to the question:

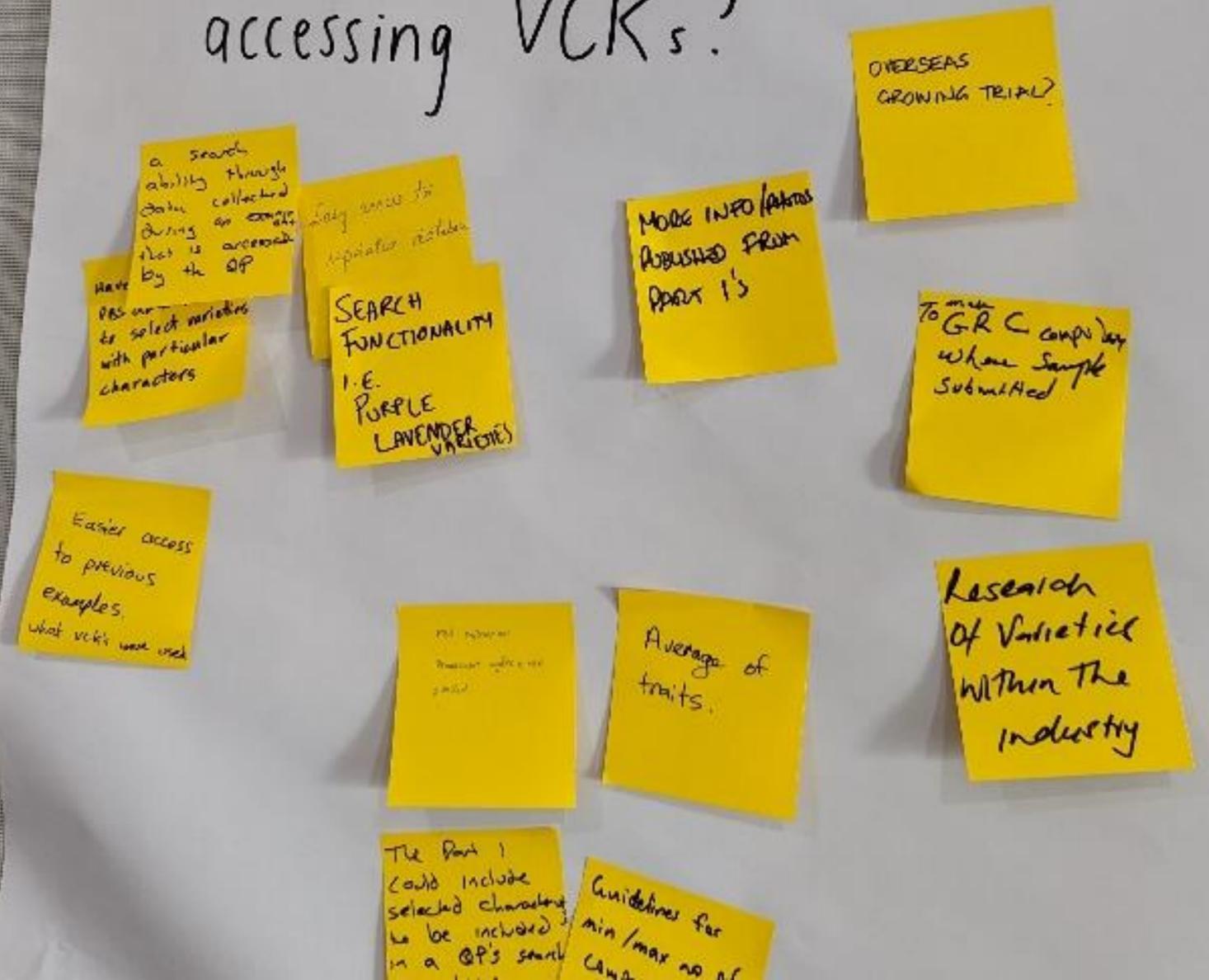
If you could wave a magic wand and change anything about how the QP system works, what would you change and how?

Through this, we received another 57 responses.

Figure 4: Example of what the “how might we” questions and ideas looked like on the walls in our in-person workshops

How might we address

Challenges in selecting and
accessing VCKs?



Further discussions

- Each workshop ended with time for further discussion and questions.
- Topics included:
 - How the COVID-19 pandemic has affected work of QPs
 - What happens when things go wrong between QPs and applicants
 - Practical realities of Genetic Resource Centres (GRCs) as part of the PBR process
 - Role of the Australian Cultivar Registration Authority (ACRA) in the PBR process
 - Ideas for future public education and awareness opportunities and channels/ways to reach various industries with information about PBR
 - Thoughts on and lessons we could learn from overseas plant variety protection systems
 - Using genomic information/markers in PBR



More resources and information

[PBR Reform web page](#)

[UQ policy research reports](#)

If you would like more information or to chat with the team please email: pbr.reform@ipaaustralia.gov.au or call Charlotte Iggulden on 02 6283 2903





Australian Government

IP Australia

Contact us

 1300 65 1010 (9am-5pm)

 ipaustralia.gov.au

 facebook.com/ipaustralia.gov.au

 twitter.com/IPAUstralia

 linkedin.com/company/ip-australia

 youtube.com/user/ipaustralia

 instagram.com/ipaustraliaofficial/

