

137-139 Oberon Street
PO Box 84
Oberon NSW 2787

Telephone: (02) 6329 8100
Fax: (02) 6329 8142
Email: Council@oberon.nsw.gov.au



OBERON COUNCIL

LATE REPORTS

Oberon Council Ordinary Meeting
Tuesday 20 December 2016

Commencing at 5.30pm
at the Council Chambers

Agenda Items

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13.22 LATE REPORT – LEGAL CHALLENGE UPDATE

File No: Governance/Boundaries Commission Review/Legal Challenge

Author: Gary Wallace, Deputy General Manager

Summary

The following late report is provided as an update regarding current legal proceedings.

Recommendation:

That Council:

1. Lodge an appeal in the NSW Supreme Court of Appeal in relation to the merger proposal.
2. Provide an additional allocation of \$40,000 to its current legal appeal fund from General Revenue to cover the costs of an appeal.
3. Resolve that the expenditure is required and warranted to enable Council to exercise its legitimate right to appeal.

As Council would be aware the Land and Environment Court rejected Councils challenge to the Ministers amalgamation proposal on 7 October 2016. Council lodged a Notice of Intention to Appeal in the NSW Supreme Court of Appeal on 12 October 2016 and was subsequently given an undertaking by the Crown Solicitors Office that no further action regarding amalgamation would be taken until 7 days after the 'Woollahra Case' was decided by the Court of Appeal.

The Supreme Court goes into recess from 19 December to 27 January 2017 (both dates inclusive). A decision in the Woollahra Case has not been made and Council has now been advised that a decision is unlikely before February 2017 at the earliest.

Councils appeal rights expire on 7 January 2017 unless a formal appeal is lodged before that date.

Should Council decide not to lodge an appeal, the State Government would be able to proceed with a proclamation to amalgamate Oberon with Bathurst Regional Council regardless of the outcome of the 'Woollahra Case'.

A separate report has been included in the confidential section of the business paper outlining preliminary legal advice relating to Council's possible avenues of appeal. The legal team have indicated that an appeal is estimated to cost \$120,000 in relation to Oberon and Cabonne's. This expense would be shared between the two councils.

Should Council determine to proceed with the appeal, funds could be provided from General Revenue. Also, as there is not a specific vote for this matter in the 2016/17 budget, the Council will be required to resolve why the expenditure is required and warranted.

Please note that guidelines have been issued under Section 23A of the Local Government Act titled "Council decision making during merger proposal periods". Council must consider the guidelines in relation to each decision they make during the proposal period. The Section 23A Guidelines: *"In particular, councils or council officials should not make decisions during a merger proposal period... to prevent or disrupt the consideration of merger proposals by the Chief Executive of the Office of Local Government or his delegate, the Boundaries Commission or the Minister for Local Government other than through the legitimate exercise of legal rights of review or appeal."*

13.23 COMMUNITY SURVEY 2016

File No: File No: Governance/Ordinary/Confidential
Author: Lynette Safranek, Acting General Manager

Summary

This report contains preliminary results from the Oberon Council Community Survey 2016 prepared and conducted by IRIS Research. A full report on the analysis of the Survey will be tabled at the February 2017 Ordinary Council Meeting. 62.5% of residents gave Council a high level of overall satisfaction rating.

Recommendation:

That report item 13.23 is received as information.

IRIS Research conducted a survey on behalf of Oberon Council as part of its Community Consultation process. IRIS Research has conducted this research for Councils in NSW for 35 years. They have conducted over 600 such surveys and have the biggest data base of Council community data from which to draw powerful benchmark findings.

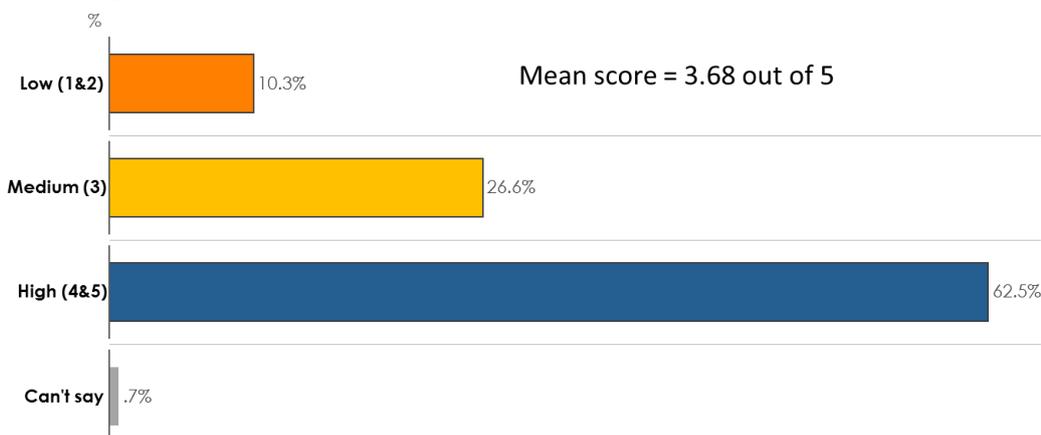
The survey was conducted by telephone with permanent residents of Oberon Local Government Area, 18+ years, who lived in the area for at least 6 months. It was a random sample of residents using White Pages and 'Plus 5 method', and supplemented with additional mobile numbers. The survey commenced on 12 December 2016 and ran through to 14 December 2016. There were 405 completed interviews with a response rate of 67.5. That is for every 100 people called, 68 were completed, which is considered a very high response rate for this type of survey.

Council will also provide the survey online for those residents who did not have an opportunity to be involved in the phone survey, they will be able to select the link on Council's website and Facebook page to complete the survey. The survey will be available from 20 December 2016 to 20 January 2017.

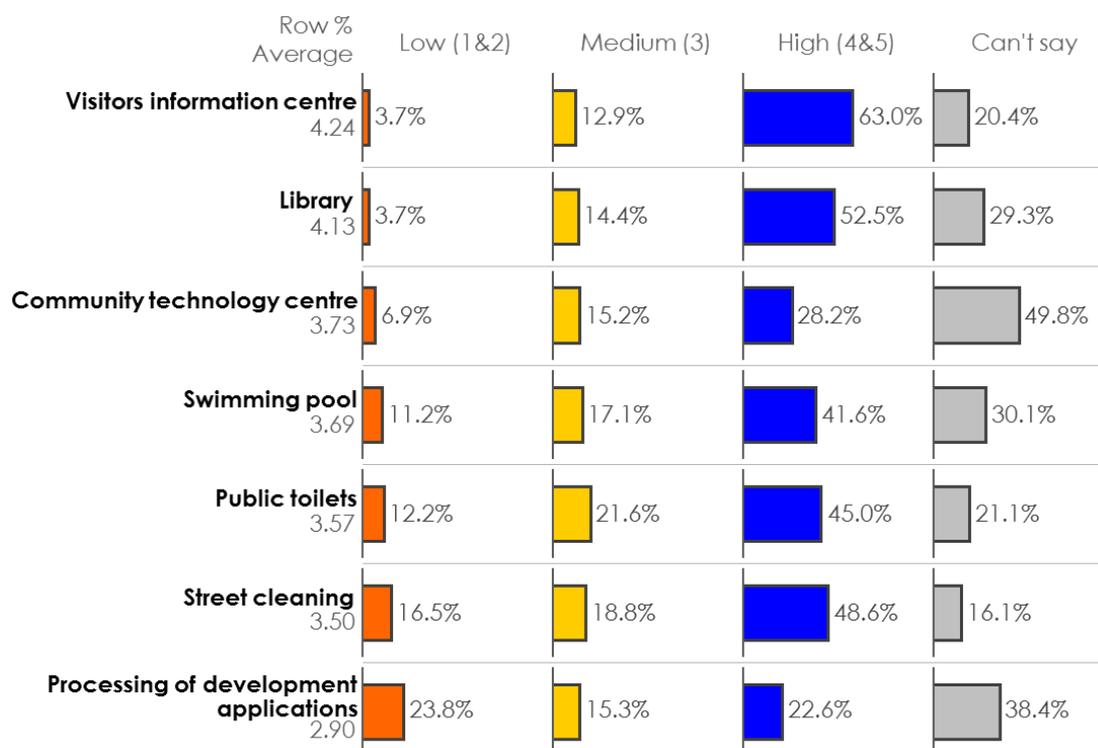
Information gathered from both surveys will be presented at the February 2017 Ordinary Council meeting, and used as a platform for the 2017 Community Strategic Plan.

Below is a summary of the results from the phone survey:

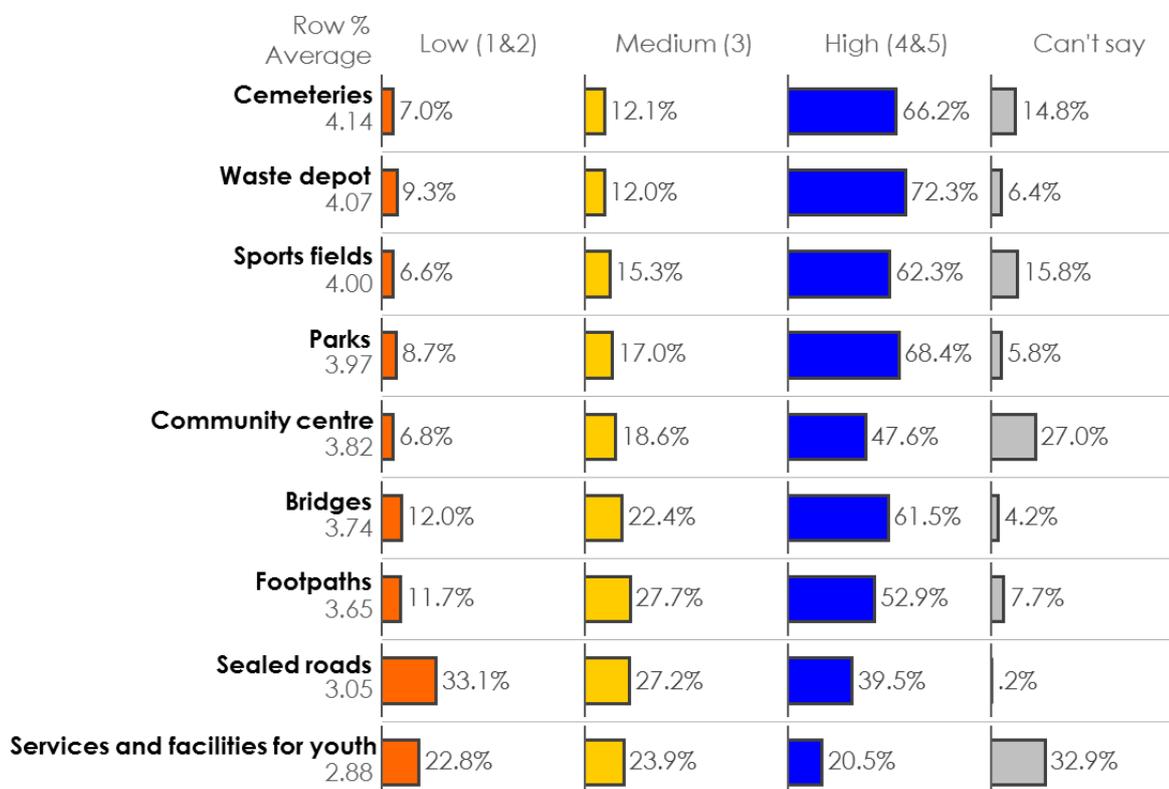
Overall Satisfaction



Services

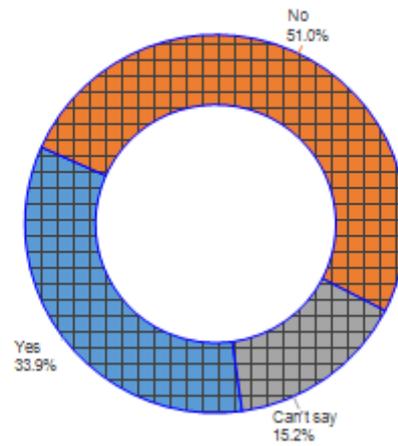


Facilities



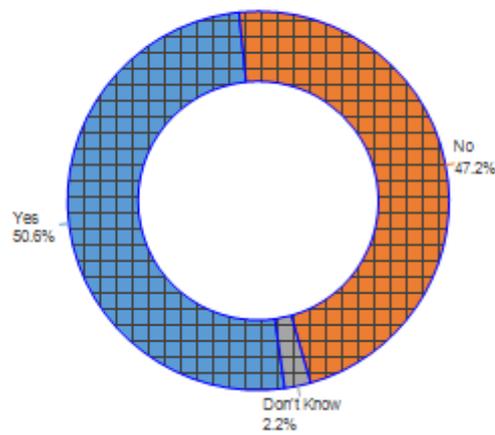
Recycling

Would you be prepared to pay for a kerbside recycling service?

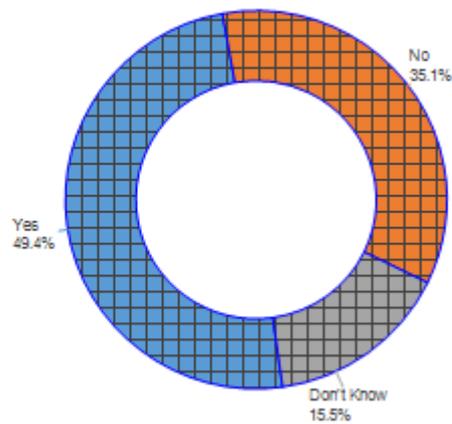


Roads

Condition of sealed roads in the Oberon LGA is acceptable?

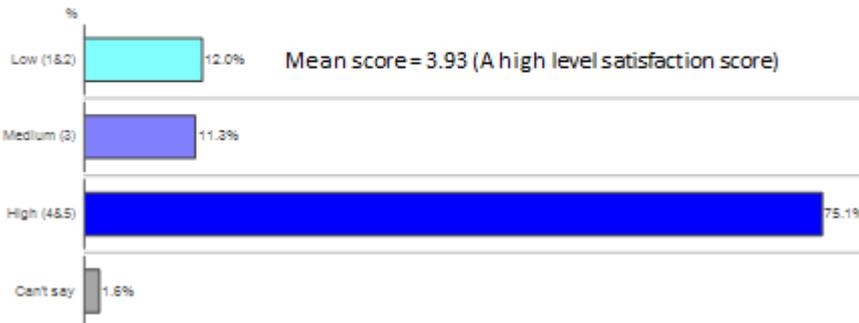


Do you consider that the current maintenance condition of unsealed roads in the Oberon LGA is acceptable?



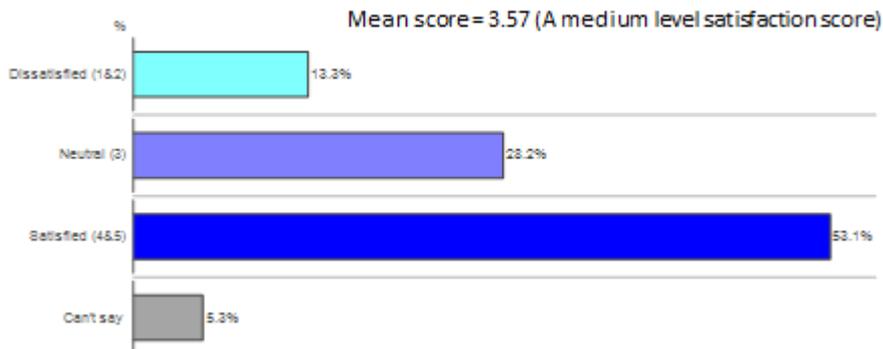
Performance by Council Staff

How satisfied are you with the overall performance of Council's staff.



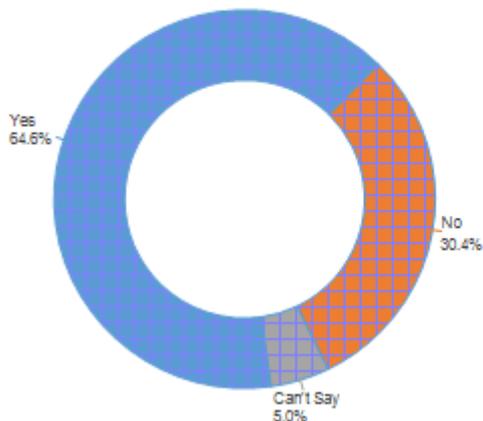
Performance by Councillors

How satisfied are you with the overall performance of Councillors



Merger

Are you in favour of Council continuing the challenge against the proposed merger in the courts?



Acting General Manager's Comment

Guidelines have been issued under Section 23A of the Local Government Act 1993 titled 'Council Decision making During Merger Proposal Periods'. Council must consider the guideline in relation to each decision they make during the proposal period. It is considered that this matter does not comply with the guidelines.