

NO: R119

COUNCIL DATE: July 10, 2023

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## REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **July 6, 2023**

FROM: **General Manager, Engineering**

FILE: **5405-30**

SUBJECT: **Whistle Cessation in Crescent Beach**

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## RECOMMENDATION

The Engineering Department recommends that Council:

1. Receive this report for information; and
2. Direct staff not to proceed with the fence construction and whistle cessation at this time.

## INTENT

The intent of this report is to provide Council with information on the status of train whistle cessation in Crescent Beach and the results of the public engagement survey regarding proposed fence construction in response to requests for whistle cessation.

## BACKGROUND

There are two public crossings of the Burlington Northern Santa Fe (“BNSF”) railway in Crescent Beach located at McBride Avenue and Beecher Street. The *Canadian Rail Operating Rules* require train operators to sound their whistle signal prior to public grade railway crossings.

## DISCUSSION

### Whistle Cessation

Since approximately 2008, City staff have worked with BNSF on opportunities to achieve whistle cessation. The procedure established by Transport Canada to *Eliminating Whistling At Public Grade Crossings* is provided in the attached Appendix “I”.

To eliminate train whistling at the public grade railway crossings at McBride Avenue and Beecher Street, BNSF proposed the construction of a 1.8 m high chain link fence to physically obstruct and deter pedestrians from trespassing onto the railway line.

Fencing was initially proposed to be located within BNSF’s property, close to the railway; however, after five years of negotiations, the City could not accept BNSF’s requirements for annual lease payments, indemnity, and liability. A secondary alternative for the fence location was identified to be on City road allowance wherein an agreement with BNSF would not be required. The proposed fence location on Bayview Street is shown in the attached Appendix “II”.

## Consultation

Bayview Street is a narrow road with limited on-street parking. The road allowance property line with BNSF is 1-2m from the edge of the asphalt, and residents who stop or park along the north side of the road are likely encroaching on BNSF's land. While BNSF is aware of these encroachments, they have not acted to date nor installed a fence or barriers to prevent this use.

If a fence is installed along the road allowance, whether to support whistle cessation or if BNSF seeks to prevent encroachments, there would be a reduction in approximately 50 on-street illegitimate parking spaces. The fence could also result in unintended safety consequences as the road would appear narrower and likely result in pedestrians sharing the road space with vehicles.

Considering the Crescent Beach community's longstanding desire for whistle cessation, BNSF's requirement for a 1.8m high fence and the corresponding impacts of the fence to Bayview Street residents, staff initiated a public engagement survey to seek feedback from Crescent Beach residents. Postcards were mailed to each home on Bayview Street and Crescent Beach, with a survey link and individualized code, limited to one per address.

The City received 156 survey responses, representing a response rate of 31%, a summary of the results is attached in Appendix "III". While 57% of the respondents supported whistle cessation, only 45% were in support of a fence being installed on Bayview Street. While some residents see the potential benefits in noise reduction, the majority of respondents opposed the fence along Bayview Street, primarily due to: the perceived loss of on-street parking; the aesthetics of a chain-link fence; and their opinion the fence may not improve safety and trespassing.

## Implications

The estimated cost of the project is \$405,000, for which the City received \$324,480 in funding from the Federal Rail Safety Improvement Program which expires March 31, 2024. Crescent Beach is located on the traditional territory of the Semiahmoo First Nation and an archaeological permit and potential soil investigations would likely be required to construct the fence, which was not anticipated in the original cost estimate.

If the City does not proceed with the Crescent Beach whistle cessation fencing, staff will request approval from the Federal Government to reallocate the funding to other railway safety improvements in the City.

## CONCLUSION

The community is divided on whether the benefits of whistle cessation outweigh the implications of fence construction. Given these, it is recommended that Council directs staff not to proceed with the fence construction.

Scott Neuman, P.Eng.  
General Manager, Engineering

RV/GDC/cc

Appendix "I" – Procedure for Eliminating Whistling At Public Grade Crossings

Appendix "II" – Crescent Beach Proposed Pedestrian Safety Fencing on City of Surrey Road Allowance

Appendix "III" – Proposed Fence Project for Whistle Cessation in Crescent Beach Survey Results

### Procedure for Eliminating Whistling At Public Grade Crossings

**Step 1: Interest for whistling cessation is expressed.**

An interest for whistling cessation exists when a municipality receives a request from a citizen or a community group to stop train whistling at a specific area (one crossing or multiple crossings) along a railway corridor.

**Step 2: Municipality consults with railway company.**

The municipality consults with the railway company that operates the relevant line of railway to assess the feasibility of the whistling cessation request.

**Step 3: Municipality issues notifications and public notice.**

The municipality notifies all relevant associations or organizations and issues a public notice of its intention to pass a resolution declaring that it agrees that whistles should not be used at a specific area (crossing or multiple crossings) along a railway corridor.

**Step 4: Municipality and railway assess the crossing(s) against the prescribed requirements in the Grade Crossings Regulations and Grade Crossing Standards.**

The municipality and the railway company assess whether or not the area (crossing or multiple crossings) meets the whistling cessation requirements specified in Section 104 of the Grade Crossings Regulations and Appendix D of the Grade Crossing Standards. This may be done by engaging a professional engineer to determine if the area complies with the conditions in the regulations.

**Step 5: Municipality and railway agree that the crossing(s) meets the prescribed requirements of the Grade Crossings Regulations and Standards.**

If the municipality and the railway company do not mutually agree that the crossing(s) meets the prescribed requirements, they should try to resolve the conflict.

**Step 5A: Municipality and railway request a final decision from Transport Canada. (Optional)**

If disagreement between the municipality and the railway persists, the supporting documentation should be provided to Transport Canada ([railsafety@tc.gc.ca](mailto:railsafety@tc.gc.ca)) for further assessment. Transport Canada’s decision on the issue is final.

**Step 6: Municipality passes a Bylaw declaring that it agrees that whistles should not be used in that area, thereby prohibiting train whistling.**

Once it is deemed that the provisions of the Grade Crossings Regulations and Standards are satisfied, the municipality must declare, by resolution, that it agrees that train whistles should not be used at the prescribed crossing(s). A copy of the resolution should be sent to the railway company and all relevant associations or organizations, including the headquarters of Transport Canada’s Rail Safety Directorate ([railsafety@tc.gc.ca](mailto:railsafety@tc.gc.ca)).

**Step 7: Railway company notifies Transport Canada and informs the municipality within 30 days that it has arranged to have whistling ceased at the crossing(s).**

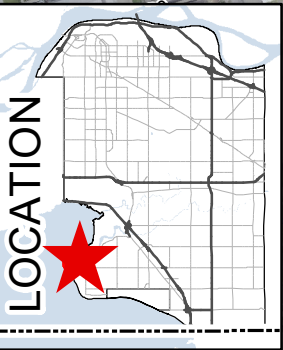
Upon receipt of the resolution, the railway company issues its special instructions, as per Canadian Rail Operating Rules (“CROR”) 14(1)(iv), eliminating the application of CROR 14(1)(i), while providing for CROR 14(f). The railway company notifies the headquarters of Transport Canada’s Rail Safety Directorate ([railsafety@tc.gc.ca](mailto:railsafety@tc.gc.ca)) of the effective date of whistling cessation at the crossing(s) and provides a copy of its special instructions.

The railway company notifies the municipality and/or the road authorities in writing of the whistling cessation not later than 30 days after the day whistling is ceased.

**Step 8: Municipality and railway share the responsibility for monitoring and maintaining the conditions that support the cessation of train whistling at the crossing(s).**

A Transport Canada Railway Safety Inspector may order the reinstatement of whistling at the crossing(s) should the responsible authorities fail to maintain the area in a manner that meets the prescribed requirements of the Grade Crossings Regulations and section 23.1 of the *Railway Safety Act* (Canada).

# AERIAL PHOTOGRAPH OF SITE APPENDIX "II"



**Black Chain Link Fence**

Fencing not required west of the tracks as private property prohibits pedestrian trespass

**LEGEND**

- Black Chain Link Fence
- - - Railway

Produced by GIS Section: 17-Feb-2023, P205803

Date of Aerial Photograph: 2022

Scale: 1:3,000 0 25 M



## Proposed Pedestrian Safety Fencing on City of Surrey Road Allowance

ENGINEERING DEPARTMENT

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey. This information is provided for information and convenience purposes only. Lot sizes, Legal descriptions and encumbrances must be confirmed at the Land Title Office.

# Proposed Fence Project for Whistle Cessation in Crescent Beach

Survey Results  
May 31, 2023

The results of this survey, conducted between May 2, 2023 and May 29, 2023, are not weighted to the City of Surrey's population.  
The results are based on 156 survey responses (complete & partial responses).

## Background

The Burlington Northern Santa Fe (BNSF) Railway has two public-grade crossings in Crescent Beach, at McBride Avenue and Beecher Street. For safety measures, the train blows a whistle when approaching these crossings. The whistle is disruptive to residents of the area.

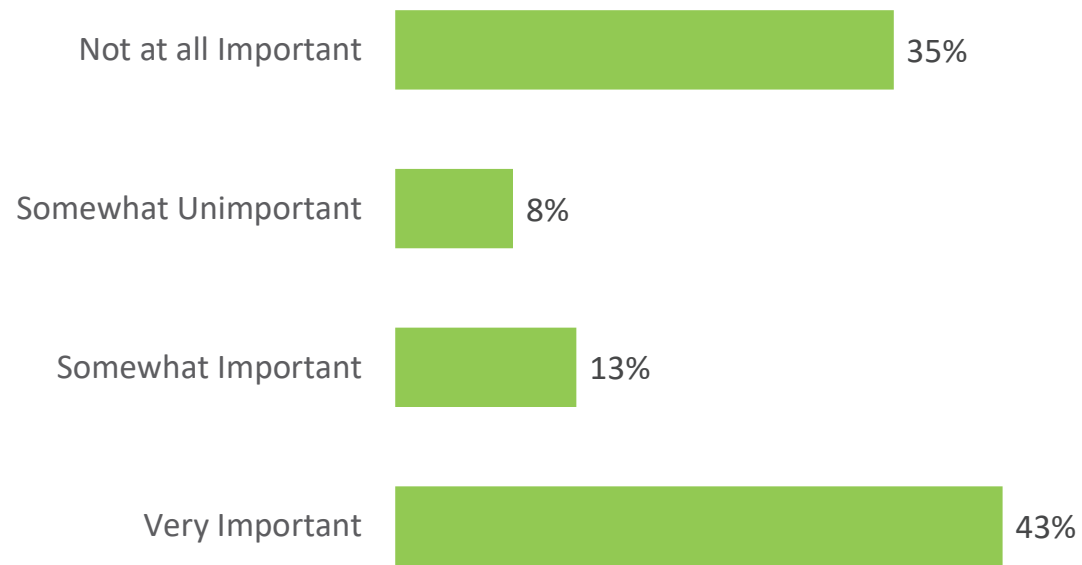
Since approximately 2008, City staff have worked with BNSF on opportunities to achieve Whistle Cessation. BNSF has recently confirmed that fencing is the only outstanding safety issue to address prior to continuing the process towards Whistle Cessation.

The City is proposing a fence along the rail corridor to increase public safety as an important step towards achieving Whistle Cessation. The City is proposing to build a minimum 6-foot-high chain link fence with no gates to prohibit climbing or passing through the barrier along the rail corridor. The fence will be built on City road allowance.

The City sought feedback from the community in Crescent Beach regarding the proposed fence via an online survey. Residents living in close proximity to the proposed fence received an invitation letter containing a unique access code which was required to participate in the survey.

Results of the public feedback will be shared with City Council in June.

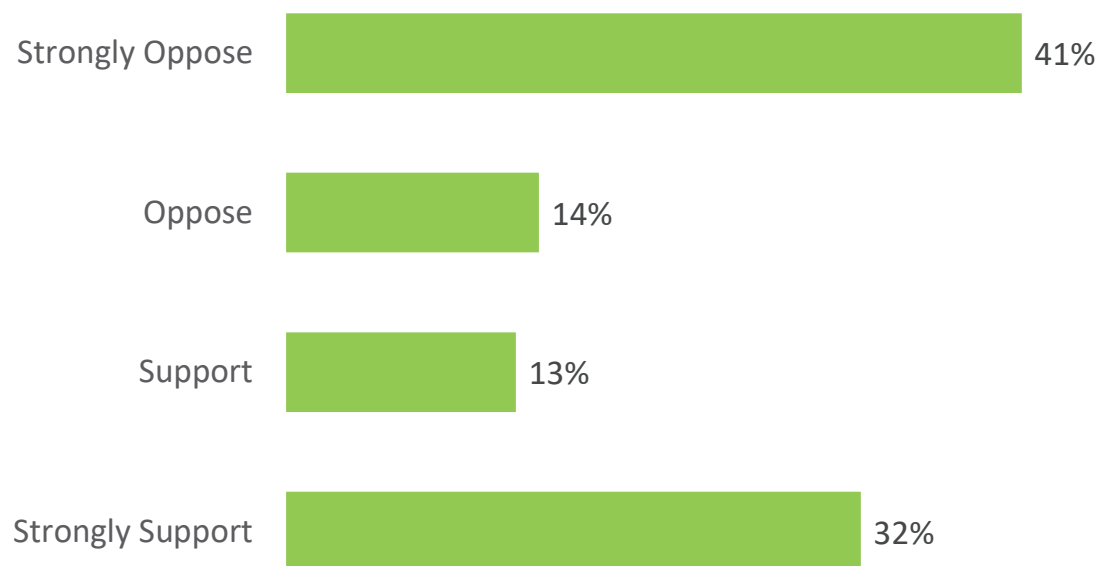
# Importance of reducing the amount of train whistle blowing



Q: How important is it to you to reduce the amount of train whistle blowing?  
Total participants: 155



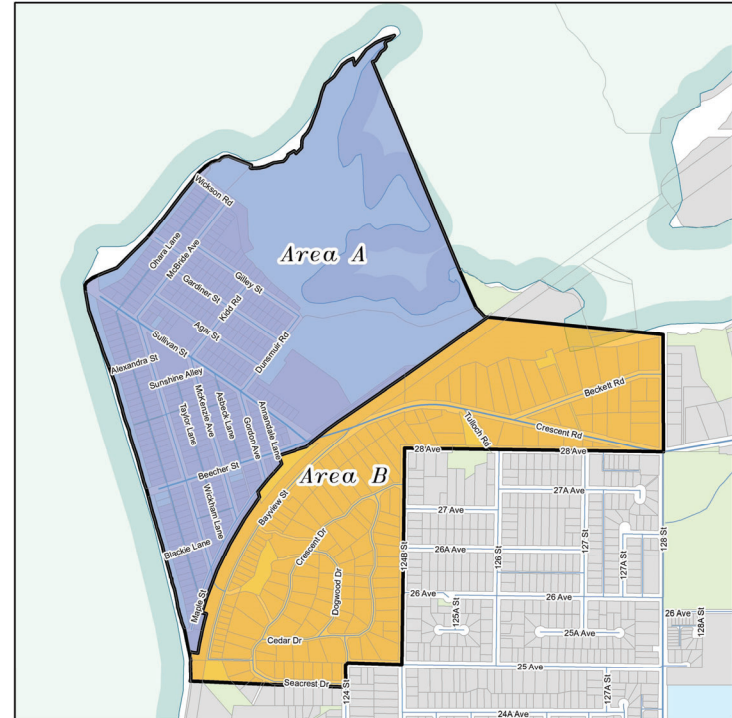
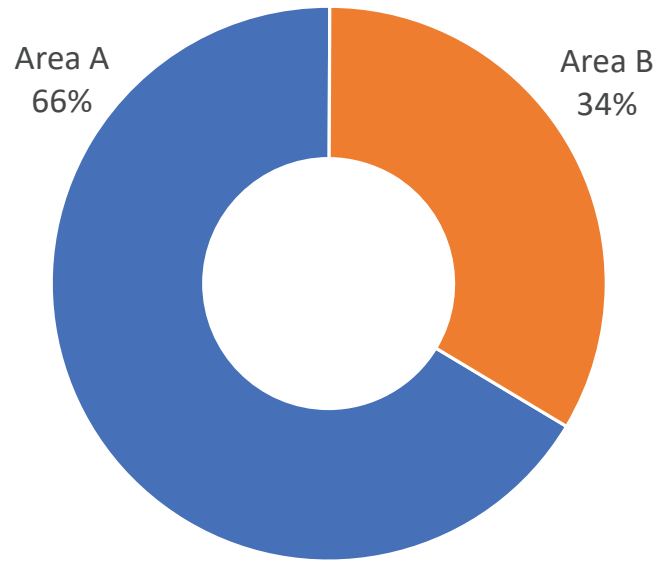
## Support for/opposition to the construction of a fence to help achieve whistle cessation



Q: To what extent do you support or oppose the construction of a fence to help achieve whistle cessation?

Total participants: 156

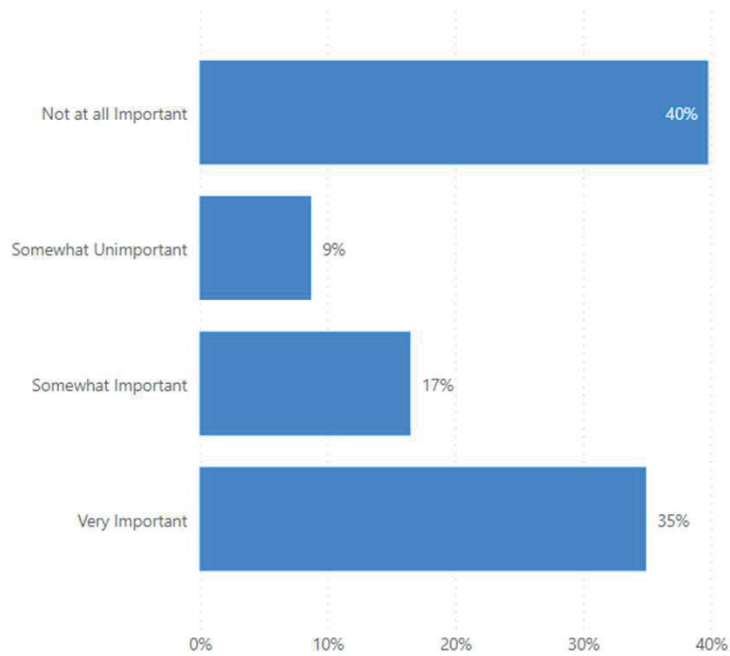
# Response by map area



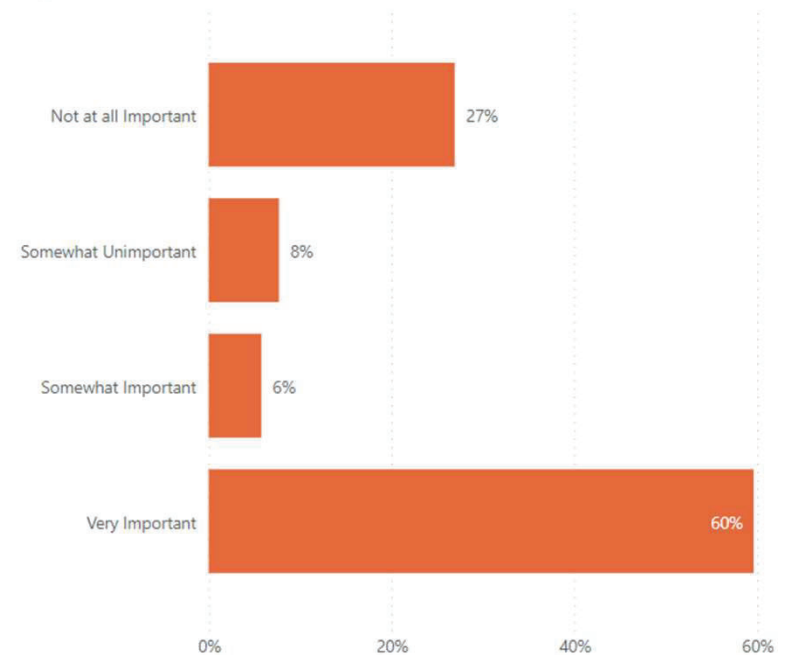
Q: Please tell us if you live in area A or B as marked on the map above.  
Total participants: 155

# Importance of reducing the amount of train whistle blowing by map area

Map area A



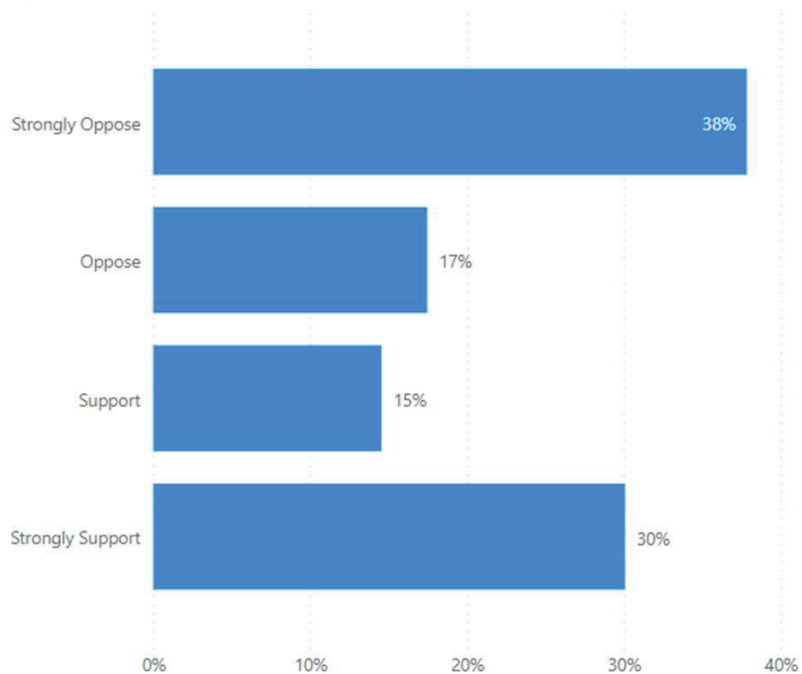
Map area B



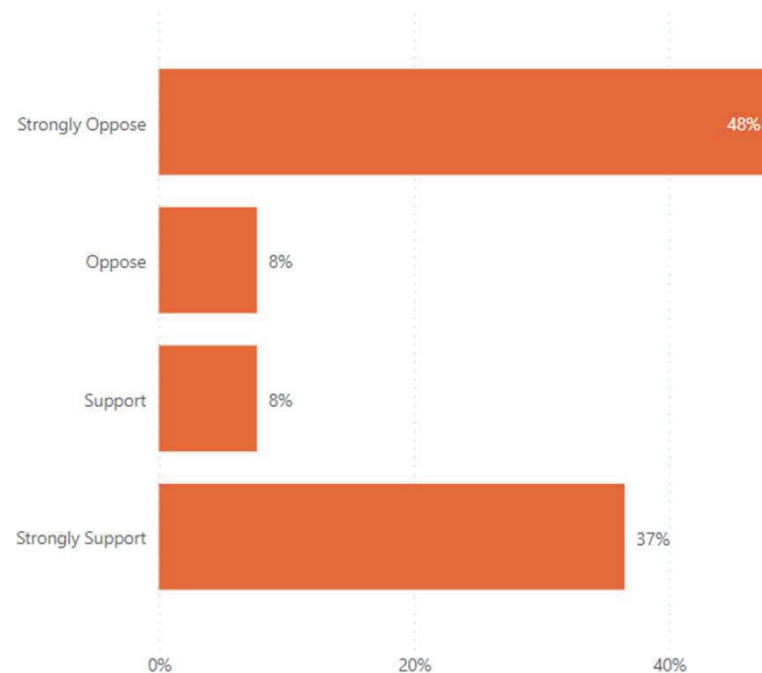
Q: How important is it to you to reduce the amount of train whistle blowing?  
Total participants: 155

# Support for/opposition to the construction of a fence to help achieve whistle cessation

Map area A



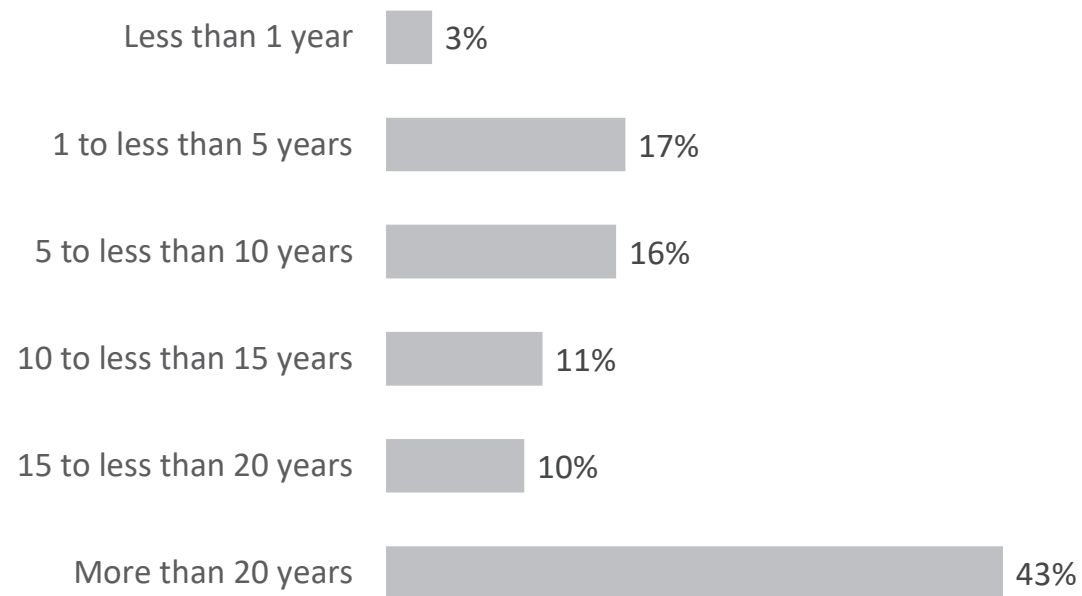
Map area B



Q: To what extent do you support or oppose the construction of a fence to help achieve whistle cessation?

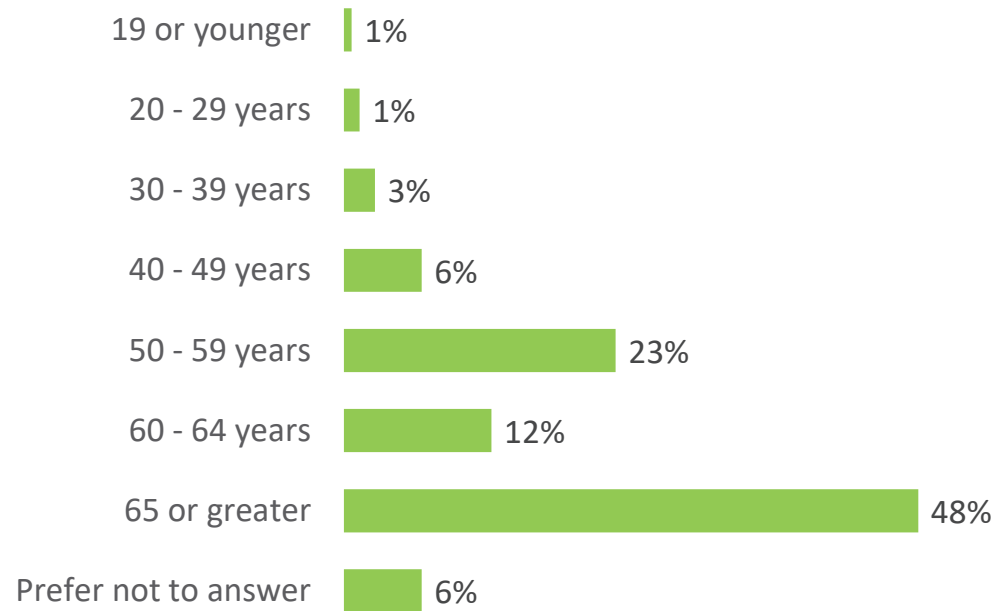
Total participants: 156

## Years living in current home



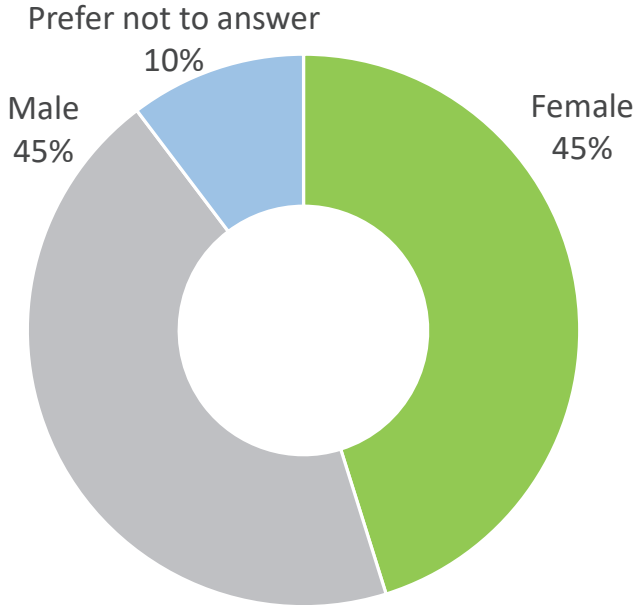
Q: How long have you lived in your current home?  
Total participants: 155

## Age range



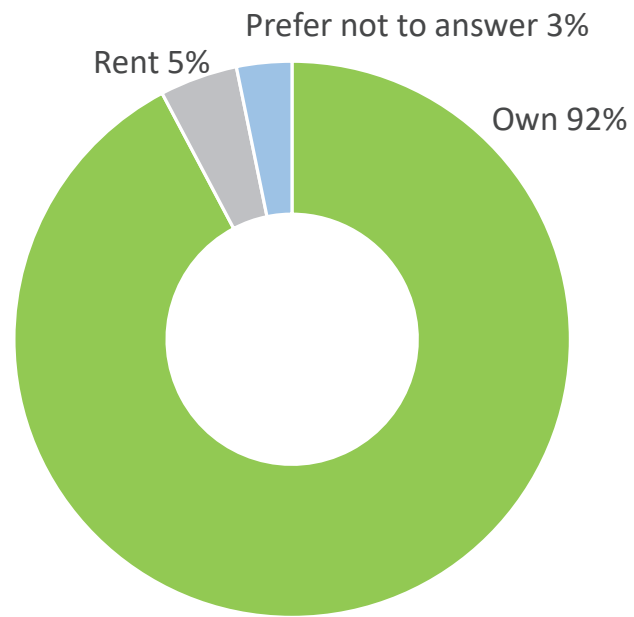
Q: What best describes your age group?  
Total participants: 155

# Gender



Q: How do you describe yourself?  
Total participants: 155

# Tenure



Q: Do you own or rent the home in which you live?  
Total participants: 155