

PURPOSE

BACKGROUND

This map shows a coastal area with several land parcels. A blue line represents a proposed water line, starting from a 'Well' location (indicated by a blue arrow) and running along the coast. The line is labeled 'New Water Line'. The map includes labels for 'Genoa Bay', 'Cowichan Bay', 'Pender Rd', 'Saltspring Rd', and 'Genoa Bay Rd'. Various parcel numbers are visible, including 5029, 5025, 5021, 5016, 5014, 5013, 5012, 5011, 5010, 5009, 5008, 5007, 5006, 5005, 5004, 5003, 5002, 5001, 5000, 4999, 4998, 4997, 4996, 4995, 4994, 4993, 4992, 4991, 4990, 4989, 4988, 4987, 4986, 4985, 4984, 4983, 4982, 4981, 4980, 4979, 4978, 4977, 4976, 4975, 4974, 4973, 4972, 4971, 4970, 4969, 4968, 4967, 4966, 4965, 4964, 4963, 4962, 4961, 4960, 4959, 4958, 4957, 4956, 4955, 4954, 4953, 4952, 4951, 4950, 4949, 4948, 4947, 4946, 4945, 4944, 4943, 4942, 4941, 4940, 4939, 4938, 4937, 4936, 4935, 4934, 4933, 4932, 4931, 4930, 4929, 4928, 4927, 4926, 4925, 4924, 4923, 4922, 4921, 4920, 4919, 4918, 4917, 4916, 4915, 4914, 4913, 4912, 4911, 4910, 4909, 4908, 4907, 4906, 4905, 4904, 4903, 4902, 4901, 4900, 4899, 4898, 4897, 4896, 4895, 4894, 4893, 4892, 4891, 4890, 4889, 4888, 4887, 4886, 4885, 4884, 4883, 4882, 4881, 4880, 4879, 4878, 4877, 4876, 4875, 4874, 4873, 4872, 4871, 4870, 4869, 4868, 4867, 4866, 4865, 4864, 4863, 4862, 4861, 4860, 4859, 4858, 4857, 4856, 4855, 4854, 4853, 4852, 4851, 4850, 4849, 4848, 4847, 4846, 4845, 4844, 4843, 4842, 4841, 4840, 4839, 4838, 4837, 4836, 4835, 4834, 4833, 4832, 4831, 4830, 4829, 4828, 4827, 4826, 4825, 4824, 4823, 4822, 4821, 4820, 4819, 4818, 4817, 4816, 4815, 4814, 4813, 4812, 4811, 4810, 4809, 4808, 4807, 4806, 4805, 4804, 4803, 4802, 4801, 4800, 4799, 4798, 4797, 4796, 4795, 4794, 4793, 4792, 4791, 4790, 4789, 4788, 4787, 4786, 4785, 4784, 4783, 4782, 4781, 4780, 4779, 4778, 4777, 4776, 4775, 4774, 4773, 4772, 4771, 4770, 4769, 4768, 4767, 4766, 4765, 4764, 4763, 4762, 4761, 4760, 4759, 4758, 4757, 4756, 4755, 4754, 4753, 4752, 4751, 4750, 4749, 4748, 4747, 4746, 4745, 4744, 4743, 4742, 4741, 4740, 4739, 4738, 4737, 4736, 4735, 4734, 4733, 4732, 4731, 4730, 4729, 4728, 4727, 4726, 4725, 4724, 4723, 4722, 4721, 4720, 4719, 4718, 4717, 4716, 4715, 4714, 4713, 4712, 4711, 4710, 4709, 4708, 4707, 4706, 4705, 4704, 4703, 4702, 4701, 4700, 4699, 4698, 4697, 4696, 4695, 4694, 4693, 4692, 4691, 4690, 4689, 4688, 4687, 4686, 4685, 4684, 4683, 4682, 4681, 4680, 4679, 4678, 4677, 4676, 4675, 4674, 4673, 4672, 4671, 4670, 4669, 4668, 4667, 4666, 4665, 4664, 4663, 4662, 4661, 4660, 4659, 4658, 4657, 4656, 4655, 4654, 4653, 4652, 4651, 4650, 4649, 4648, 4647, 4646, 4645, 4644, 4643, 4642, 4641, 4640, 4639, 4638, 4637, 4636, 4635, 4634, 4633, 4632, 4631, 4630, 4629, 4628, 4627, 4626, 4625, 4624, 4623, 4622, 4621, 4620, 4619, 4618, 4617, 4616, 4615, 4614, 4613, 4612, 4611, 4610, 4609, 4608, 4607, 4606, 4605, 4604, 4603, 4602, 4601, 4600, 4599, 4598, 4597, 4596, 4595, 4594, 4593, 4592, 4591, 4590, 4589, 4588, 4587, 4586, 4585, 4584, 4583, 4582, 4581, 4580, 4579, 4578, 4577, 4576, 4575, 4574, 4573, 4572, 4571, 4570, 4569, 4568, 4567, 4566, 4565, 4564, 4563, 4562, 4561, 4560, 4559, 4558, 4557, 4556, 4555, 4554, 4553, 4552, 4551, 4550, 4549, 4548, 4547, 4546, 4545, 4544, 4543, 4542, 4541, 4540, 4539, 4538, 4537, 4536, 4535, 4534, 4533, 4532, 4531, 4530, 4529, 4528, 4527, 4526, 4525, 4524, 4523, 4522, 4521, 4520, 4519, 4518, 4517, 4516, 4515, 4514, 4513, 4512, 4511, 4510, 4509, 4508, 4507, 4506, 4505, 4504, 4503, 4502, 4501, 4500, 4499, 4498, 4497, 4496, 4495, 4494, 4493, 4492, 4491, 4490, 4489, 4488, 4487, 4486, 4485, 4484, 4483, 4482, 4481, 4480, 4479, 4478, 4477, 4476, 4475, 4474, 4473, 4472, 4471, 4470, 4469, 4468, 4467, 4466, 4465, 4464, 4463, 4462, 4461, 4460, 4459, 4458, 4457, 4456, 4455, 4454, 4453, 4452, 4451, 4450, 4449, 4448, 4447, 4446, 4445, 4444, 4443, 4442, 4441, 4440, 4439, 4438, 4437, 4436, 4435, 4434, 4433, 4432, 4431, 4430, 4429, 4428, 4427, 4426, 4425, 4424, 4423, 4422, 4421, 4420, 4419, 4418, 4417, 4416, 4415, 4414, 4413, 4412, 4411, 4410, 4409, 4408, 4407, 4406, 4405, 4404, 4403, 4402, 4401, 4400, 4399, 4398, 4397, 4396, 4395, 4394, 4393, 4392, 4391, 4390, 4389, 4388, 4387, 4386, 4385, 4384, 4383, 4382, 4381, 4380, 4379, 4378, 4377, 4376, 4375, 4374, 4373, 4372, 4371, 4370, 4369, 4368, 4367, 4366, 4365, 4364, 4363, 4362, 4361, 4360, 4359, 4358, 4357, 4356, 4355,

This service line suffered a failure and 720 Saltspring Road was subsequently connected to the potable water system operated by Genoa Waterworks Society. This society is a private water utility that supplies 20 properties in the Genoa Bay area. However, the system is limited in its capacity to supply water during the summer months. Consequently, the owner of 720 Saltspring Road wants to install a new water service to connect to the well that the service was connected to in the past.

DISCUSSION

The water service will have to cross (Pender Road) and travel along Saltspring Road to supply the property at 720 Saltspring Road. The installation of private infrastructure within a municipal road dedication is potentially problematic. If the service should break it could damage the road and possibly expose North Cowichan to liability.

The Director of Engineering can require the property owner to enter into an encroachment agreement with North Cowichan consistent with the Delegation of Authority Bylaw. An encroachment agreement is between North Cowichan and the landowner; it does not run with the land. The encroachment agreement is no longer in force if the benefiting property is sold. The Director of Engineering can request that the *new* owner of the benefiting property enter into an encroachment agreement; however, the Director of Engineering cannot *compel* the *new* owner to enter into an encroachment agreement. Therefore, staff do not recommend that North Cowichan enter into an encroachment agreement in this case.

In this case, staff recommend that North Cowichan register an easement over the affected area. However, a road dedication is a unique type of property. It is considered common property and is not defined as a single entity by the Land Title and Survey Authority of British Columbia (LTSA). To establish an easement, North Cowichan will have to raise title over the affected section of road. This will allow the easement to be registered with the LTSA office. This will ensure that the agreement travels with the land and persists irrespective of who owns 720 Saltspring Road.

OPTIONS

1. **(Recommended Option)** THAT Council approve the request to install the private water service within the municipal road dedication from the intersection of Genoa Bay Road and Saltspring Road to 720 Saltspring Road, subject to the following conditions:
 - (1) The Proponent is responsible for all legal costs associated with the raising title to the impacted area and registration of the easement;
 - (2) The Proponent must adhere to the alignment of the proposed water service as defined by Engineering staff;
 - (3) The Proponent must obtain a Highway Construction Permit to carry out the work and all necessary permits from the Vancouver Island Health Authority; and
 - (4) The Proponent is required to retain a qualified contractor and assume responsibility for all costs to complete the proposed works.
 - *Recommended option provides legal protection to North Cowichan for the installation and operation of private water line within the municipal road dedication.*
 - *A waterline servicing the properties owned by the Proponent will ease the pressures of supply and consumption within the Genoa Waterworks Society water system.*
 - *This option requires more effort on the part of staff.*
2. THAT Council approve the request to install the private water service within the municipal road dedication from the intersection of Genoa Bay Road and Saltspring Road to 720 Saltspring Road, subject to the following conditions:

- (1) The Proponent enter into an encroachment agreement with the District of North Cowichan;
- (2) The Proponent must adhere to the alignment and construction requirements of the proposed water service as defined by Engineering staff;
- (3) The Proponent must obtain a Highway Construction Permit to carry out the work and all necessary permits from Vancouver Island Health Authority; and,
- (4) The Proponent is required to retain a qualified contractor and assume responsibility for all costs to complete the proposed works.

- *North Cowichan will be afforded reduced legal protection should the service fail.*
- *There will not be clear lines of duties and responsibilities beyond an initial letter which is not binding if the properties change ownership.*
- *A waterline servicing the properties owned by the Proponent will ease the pressures of supply and consumption within the Genoa Waterworks Society water system.*
- *This option requires less effort on the part of staff than the recommended option.*

3. THAT Council deny the Proponent's request to install a private water service within the municipal road dedication from the intersection of Genoa Bay Road and Saltspring Road to 720 Saltspring Road.

IMPLICATIONS

Financial

To work with Legal and the Proponent will require the allocation of staff time to raise title, finalize an easement agreement, finalize the alignment of the water service, and inspect the completed works. This is an effort not factored into the work plan for 2024.

There is no significant impact on the road dedication beyond the restoration of the road surface and grassed boulevard which will be the responsibility of the Proponent.

Environmental

By utilizing the well, the Proponent will be able to supply their property with potable water, easing the demand on the Genoa Bay Waterworks Society's water supply. It is North Cowichan's assumption that the Proponent will be meeting Island Health's requirements relating to the provision of water.

RECOMMENDATION

THAT Council approve the request to install the private water service within the municipal road dedication from the intersection of Genoa Bay Road and Saltspring Road to 720 Saltspring Road, subject to the following conditions:

- (1) The Proponent is responsible for all legal costs associated with the raising title to the impacted area and registration of the easement;
- (2) The Proponent must adhere to the alignment of the proposed water service as defined by Engineering staff;

- (3) The Proponent must obtain a Highway Construction Permit to carry out the work and all necessary permits from the Vancouver Island Health Authority; and,
- (4) The Proponent is required to retain a qualified contractor and assume responsibility for all costs to complete the proposed works.

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