

Towards a Better Understanding of the PDCA process-

(from both sides)

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1.1 Introduction

So, where to begin?

To understand the Parcel Description Certification Application process, one must be familiar with what the application *is not*, as well as with what it *is*. When we hear the words ‘Parcel Description Certification Application’, or PDCA, do we really have a clear sense of what it is that is being ‘certified’? When our application has been ‘approved’, (on occasion perhaps after having been rejected a time or two), what exactly does that mean? What is the nature of the ‘approval’ or review carried out by the mappers when receiving that same application? More importantly, what are the obligations of the lawyer who submits this electronic application¹?

These questions and others will be considered in this paper. Much of the paper (so Mark says) comes from a practitioner’s perspective, with some discussion of the PDCA process from the “system’s” viewpoint. Our real objective in this collaborative initiative was to engage in a dialogue, from each of our differing perspectives, to achieve a more complete understanding of this process and how it fits into our new land registration system. But first, let us begin by dispelling the biggest myth about our new world under the *Land Registration Act* - namely that the new electronic environment within which registration is carried out *is* the new world, replacing all of the traditional legal thinking and steps that lawyers used to carry out when practicing property law.

The new electronic applications are simply a means of synthesizing, or processing, traditional legal reasoning inherent in title opinion work. The applications are not an end in themselves, nor

¹ Under subsection 5(3A) of the *Land Registration Administration Regulations*, the lawyer may assign the submission to an assistant under the lawyer’s direction. The *Land Registration Administration Regulations* N.S.Reg. 25/2004 as amended by N.S. Reg.99/2005 are made under s.94 of the *Land Registration Act*, S.N.S. 2001, c.6 , hereinafter called the LRA Admin. Regs.

are they new, other than technologically- rather they are the means to capture the traditional information gathering and reasoning of lawyers which results from a completion of the title opinion process.

When property lawyers embarked on the rather significant *Land Registration Act*² (LRA) learning curve, their education started from the premise that not many principles of property law had changed as a result of the new legislation and therefore what lawyers were being asked to do was learn a new electronic registration system, a new process, with the traditional professional obligations remaining as before.

The mandatory LRA education offered by the Nova Scotia Barristers' Society created a bit of a dilemma for each of us, as the extent to which we practiced 'hands on' pre LRA varied, so we had to determine how we were going to incorporate this new electronic knowledge environment in each of our offices. Some of our questions included:

- Were we each to be solely responsible to do a conversion from beginning to end?
- How much of the new system was administrative, and how much was substantive? How much of what we learned did we have to remember and really understand?
- Could our staff do everything but 'press the button'?
- How much could be delegated to staff? How much should be? How much did we have to learn so that we could adequately supervise our staff?
- How much new computer equipment would we need, and how were efficiencies to be achieved, absent a full understanding of what was involved in the new process?
- If we gave the Land Registration Office staff (LRO) staff the information that we thought that they wanted, or that would enable an 'approval' rather than the too familiar 'rejection', (as tempting as that sometimes is), were our obligations satisfied?

These were, and for some continue to be, significant questions, that not all lawyers or firms have answered in the same way.

² Chapter 6 of the Acts of 2001, as amended.

The LRA learning process was easily externalized - treating the new system as a separate body of information that could be left to staff or junior associates. Some lawyers, and firms, found it easier to manage the new system by creating 'migration departments', or contracting out the conversion work. This separation of the title conversion function and the general ongoing practice of property law is artificial. The LRA process does not only involve learning the steps required for the initial parcel conversion- rather it extends far beyond that required base of knowledge. Those who do not fully understand the day to day workings and thought processes inherent in our new world (whether for the initial conversion, or for a subsequent ownership transfer, or revision) will quickly feel like a ship without a rudder in property practice in the new world.

The LRA learning process forces lawyers to become familiar enough with the LRA environment to be able to incorporate these new skills into their former independent reasoning processes. In this way, the new environment becomes as intuitive for lawyers to practice as it was prior to the *Land Registration Act*.

The PDCA process is carried out within a framework of legislative and professional obligations. The process requirements are set out in Section 5 of the *Land Registration Administration Regulations*³, and the professional obligations have in part been codified in the Nova Scotia Barristers' Society- Professional Standards- Real Property⁴. The requirement for lawyers to comply with a lawyer's professional standards are referenced in the *Land Registration Administration Regulations*⁵, and the obligation to adhere to professional standards generally, including those reflected in the Bar Society's Professional Standards is a legislative requirement that is set out in the regulations pursuant to the *Legal Profession Act*.⁶ If a matter is brought forward, or a complaint lodged with the Nova Scotia Barristers' Society about a lawyer's conduct, the Legal Ethics and Professional Conduct Handbook will be applied to assess the way in which lawyers have fulfilled their professional obligations when practicing under LRA.

³ LRA Admin Regs, supra footnote 1,

⁴ The Professional Standards- Real Property Transactions In Nova Scotia, passed by Bar Council of the Nova Scotia Barristers' Society November 2002, as amended, Standard 2.1

⁵ LRA Admin regs. supra footnote 1 at s.5(7)

⁶ Regulation 8.2- Professional Standards- 8.2.1 requiring members practicing in an area of law to comply with the standards applicable to that area, and 8.2.2 which provides "In particular, members practicing real estate law shall comply with the standards of practice applicable to real estate law, including those set out in Professional Standards- Real Property Transactions in Nova Scotia (2002) as amended"

Every time a PDCA is submitted, a lawyer is required to make numerous ‘statements of compliance’. One of those statements requires a lawyer to confirm:

“That the legal description is accurate and complete and complies with the *Land Registration Administration* Regulations, professional standards regarding legal descriptions, and the PDCA standards as set out in the PDCA checklist.”⁷

The relevant Professional Standard requires that a lawyer ‘**be satisfied**’ that the legal description:

- “a) is a proper and complete description of the parcel;
- b) identifies the parcel; and
- c) when based on a plan of survey, reflects the parcel as shown on the plan”⁸

While lawyers do not opine on the extent of title, it seems appropriate to require a lawyer to reference a surveyor’s work if it identifies the extent of title of the parcel being certified. The surveyor’s review will compliment the lawyer’s assessment as to the quality of title, providing a complete and clearer picture of what an owner truly ‘owns’.

2.0 Preliminary Matters before you begin

2.1 Authorization to work within the land registration system

There are two authorizations required before a PDCA application can be submitted electronically. A lawyer must be authorized⁹ within the meaning of the *Land Registration Act Agreement* (LRAA)¹⁰ to work within the land registration system. This requires a lawyer to complete the education and training requirements mandated by the Nova Scotia Barristers’ Society, and as well to enter into an Authorized Lawyer User Agreement with the Minister of Service Nova Scotia and Municipal Relations (SNSMR)¹¹.

⁷ See Form 2 made pursuant to the LRA Admin. Regs. supra footnote 1

⁸ Supra footnote 4, Standard 2.1

⁹ LRA Admin. Regs.s.2(1)(b) defines ‘authorized lawyer’ as an ‘eligible’ lawyer who is a party to a *Property Online* Authorized User Agreement with the Minister that is in force.

¹⁰ The LRAA is a 2003 agreement between the Nova Scotia Barristers’ Society and the Minister of Service Nova Scotia and Municipal Relations that defines the rights and responsibilities for lawyers and the Department in the new land registration system.

¹¹ ‘Eligible’ is defined in the LRA Admin.Regs. supra footnote 1, at s.2(1)(h) and ‘Qualified Solicitor’ is defined in the *Land Registration Act* supra footnote 1, at s.3(1)(q).

2.2 Authorization from the owner to carry out the work of conversion

In order to submit a PDCA, the lawyer must also have the authorization of the parcel owner for whom the work is being carried out. There may be occasions when the parcel owner is not the lawyer's client (for example if the Agreement of Purchase and Sale calls upon the buyer's lawyer to register the title), or when the lawyer's work is bundled for more than one client, (for example when preparing a mortgage for a financial institution, coupled with a migration for an owner/mortgagor). In these cases care must be taken to ensure that responsibilities owed to all parties are fulfilled. Whether you are a 'solicitor' in the traditional sense for the owner, or whether you are the solicitor for the 'agent' or 'attorney' appointed by the owner, you are still acting as a lawyer on behalf of an owner with respect to the conversion of the property into the land registration system. This means that a lawyer's ethical and professional responsibilities are owed to an owner, in addition to those that are newly legislated, with regard to the conversion work.¹²

As stated above, title registration requires a clear authorization from the owner to do so. In the context of this authorization, there is a professional obligation of the lawyer to advise the owner of the impact of migration, as well as its effect on others.¹³ There is a form prescribed by the system to document a lawyer's authorization¹⁴, and while there may be exceptions to the requirement to file this formal authorization with the system when a clear prior solicitor client relationship has been established¹⁵, lawyers are well advised to have this form signed as a matter of routine in their initial office interview, as it provides clear documentation for the conversion file.¹⁶

2.3 Where did the Provincial mapping graphics come from?

The Provincial property mapping system traces its roots to the Land Registration and Information Service (LRIS). The Council of Maritime Premiers established LRIS in 1973, as a program to be implemented in four phases over a ten-year period. Phases I and II involved

¹² See Part 2.3.1 of this paper for a discussion of the legislative entrenchment of these obligations

¹³ Professional Standards *supra* footnote 4 - Standard 1.2- Migration under the Land Registration Act.

¹⁴ Form 4, LRA Admin. Regs. *supra* at footnote 1, at s. 9(4)(b)

¹⁵ *ibid.*

¹⁶ Professional Standards, *supra* footnote 4, Standard 1.5 Documentation- "A lawyer should document... instructions received from the client.."

establishing a co-ordinate survey control network and preparation of urban and resource base maps. Phase III of the project anticipated the preparation of property maps and implementation of a land titles system in all three Maritime Provinces.

In order to establish property mapping in Nova Scotia, LRIS contracted with local surveyors and title researchers to do an initial map of all of the land parcels in the province. This was known as the initial lift mapping. The initial lift estimated the size, shape and location of land parcels on a region-by-region basis. Parcels were identified using the best information available, such as surveys, deed descriptions, assessment maps, field evidence and air photos. Once compiled, the information was digitized so that it could be accessed via computer. This is the backdrop for the POL mapping that we see today.

2.4 What is a PID?

A Parcel Identification Number (PID) is simply a label for a parcel. The mapping therefore links a parcel's title with its approximate location. Theoretically, a land titles system could have been implemented without property mapping. Each parcel register would be, in effect, an electronic "recipe card", labeled by a PID, with no geographic reference whatsoever, and simply a summary of the state of ownership of a parcel, wherever situate. That said, the integration of a title summary with the parcel's approximate location on the ground makes for a far more useful system, all in the public interest. The fact that mapping a parcel was given such prominence in a title registration system is an indication of the importance that the LRA placed on property mapping as a critical component of an effective land tenure system.

2.5 What is it that is being 'Certified' in a PDCA?

At its core, the PDCA is a process by which the registrar, through a property mapper, compares the legal description for the parcel with the mapping graphics from Property Online (POL). Upon being satisfied that the parcel is located with reasonable accuracy in relation to neighbouring properties, the mapper issues an official Parcel Identification Number (PID) for the parcel.

The PDCA process is codified in Section 37 of the LRA:

37(4) An application [for registration] shall be in the prescribed form and shall be accompanied by:

(g) the parcel identification number of the parcel certified by the registrar to match the legal description of the parcel.

37(5) Where the registrar is satisfied that the application is complete and properly identifies the parcel, the registrar shall register the parcel subject to any limitations, additions or encumbrances specified in the opinion of the qualified solicitor.

37(6) Where the registrar is not satisfied that the application is complete and properly identifies the parcel, the registrar shall reject the application and return it to the applicant.

37(7) Where the registrar cannot locate the parcel, the registrar may require the applicant to provide such further information concerning the size and location of the parcel as will permit the registrar to determine the parcel identification number for the parcel and a geographical representation of the parcel, showing it in relation to neighbouring parcels with reasonable accuracy.

37(8) A parcel that cannot be located with reasonable accuracy or for which the legal description does not permit the creation of a geographical representation of the parcel shall not be registered.

In short, if the registrar cannot locate the parcel, it cannot be registered in the new system.

Do not misunderstand what is being certified in the PDCA process. It is not the substance of the description that is being certified- that is the lawyer's obligation. Rather, it is a process that results in a match or 'certification' of a unique PID to a parcel of land. It might more correctly be termed a PID assignment process rather than a 'Parcel Description Certification Application', as 'approval' is often mistaken to mean that the system is confirming compliance with the LRA, the regulations and professional standards. In fact it is not. Rather, the PDCA is a process whereby a parcel of land is located, with reasonable accuracy, and a unique parcel identification number is assigned. The mapper carries out cursory examination in order to vet obvious compliance issues, but the responsibility for compliance rests and remains with the PDCA submitter.

There is a simple but important concept to keep in mind as you assemble your description. The PDCA process is not one in which the LRO staff 'approve' a submitted description as being complete and accurate. Nor it is one in which LRO staff are responsible for due diligence to ensure a description meets all of the legislative requirements and professional obligations. Rather it is a process whereby each submitting lawyer is certifying that the description is complete,

accurate, and fully reflects the state of the title to that parcel to the extent of the registered interests. Once that is understood, the reason why a lawyer must take great care in the completion of each step of the conversion process of a parcel becomes apparent.

3.0 Locating the Parcel with reasonable accuracy

What is the lawyer's role in locating a parcel? Lawyers cannot opine as to the extent of title- only a surveyor can do so. It follows then, that we cannot actually opine as to the 'match' of a parcel of land, the approximate shape or 'extent' of which is shown on the provincial mapping graphics, with a particular legal description as described in an instrument in the historic title. In fact, the LRA confirms:

s.21 (1) The legal description of a parcel in a register is not conclusive as to the location, boundaries or extent of the parcel.

(2) Provincial mapping is not conclusive as to the location, boundaries or extent of a parcel.

This declared limitation is important for lawyers to remember and to ensure clients appreciate. It is quite natural for a client to assume, erroneously, that conversion of their parcel invokes a government guarantee as to ownership rights *and* boundaries of their parcel.

3.1 The requirement that a lawyer assist the owner to Identify the Parcel

Lawyers are obliged by the regulations and the LRAA to assist the owner in a review of their legal description as compared with the provincial mapping of that parcel¹⁷. The owner in most cases is able to confirm the 'apparent' match of the mapping graphics with the legal description. This confirmation by the owner provides the registrar (or mapper on behalf of the registrar) with a reasonable foundation to effect the PID assignment or 'match' of a unique PID with a particular parcel.¹⁸ This obligation is to be taken seriously, and it is one that underlies both the owner's understanding of the process, and, I would suggest, the lawyer's appreciation for the state of affairs of a parcel being converted into the new system.

A lawyer should begin the due diligence process in any PDCA by printing off the Property Online mapping graphics that relate to the owner's parcel, and reviewing the results with the

¹⁷ LRA Admin. Regs. *supra* footnote 1, at s.5(5)

¹⁸ *ibid* at s.5(5)

owner in preparation for a application. By doing so, a lawyer is assisting an owner in reconciling that owner's understanding of what is owned, with what the system believes is representative of what they own. This principle of reconciliation is one that is repeated for every process steps in the new system, and is a principle that cannot be repeated too often.

While there are some exceptions to the obligation¹⁹ of assisting the owner in reviewing the parcel graphics, those exceptions relate predominantly to distress situations, when ownership arises due to a foreclosure, bankruptcy, or receivership for example, and in which someone other than the owner is in control of the property, or is acting under the authority of court proceedings.

3.1.1 The Condominium exception- a different perspective for a graphics review

There is also an exception for condominium units²⁰, as there are no graphics for individual units. There are however, graphics for the footprint of the condominium building, which can be found in the 'Parcel Relationships' section of the individual condominium unit's Property Details within Property Online. You should see reference to a 'parent' parcel PID. If you simply click on the PID associated with this parcel, you will be linked to the information of the condominium building ('condominium common'). If you then click on the 'Map' button on this PID, and highlight the 'Topo' function key, you will see the footprint of the building relative to adjoining parcels. This information is helpful in giving you a sense of how the building is located on the lot. While this is not a replacement for securing a copy of the plan filed at the Registry of Deeds for the Condominium Declaration, it is a means of giving you information quickly, in advance of any search information being received.

Condominium units will be described according to the *Land Registration Administration Regulations*²¹. The description must contain only the description for the unit as detailed in the condominium declaration (Schedule C), together with the name of the County where the condominium corporation is situate, together with the number assigned to it by the registrar of condominiums. It is useful to identify whether your parcel being converted is a dwelling unit, or a parking unit. As well, it is recommended that traditional 'condo' deed incorporating the unit

¹⁹ LRA Admin. Regs supra footnote 1, at s.5(5)(i)

²⁰ *ibid* at s.5(5)(ii)

²¹ *ibid.* at s. 5(8)

description in the body of the deed, be replaced with the warranty deed attaching Schedule “A” which will incorporate the ‘approved’ description.

3.2 How do the owners access their property?

When you are securing authorization from the owner to complete the conversion, it is useful to also inquire how they access their property from a practical perspective. To assist you in this process, you can use the ‘Topo’ function button on the parcel register on Property Online, which when triggered, will show any roads that may have been mapped that are distinct from the public roads. They will appear as red lines for private access roads or paths that may have been visible or apparent from aerial lifts previously documented. This information may be useful when conducting your general review with the owners, as they may be able to better locate their avenue of access on the ground with this additional information. The ‘Topo’ layer will also reveal any buildings on the property, and adjoining properties as well that may have been in existence at the time the aerial lift was mapped.

To give you an example of the usefulness of this exercise from a practice perspective, consider a recent example. On a review of a parcel register, access was declared to be ‘public’ and before an examination of the information revealed by triggering ‘Topo’ function key, all appears to be in order as the lot was mapped as fronting on a public street. However, triggering the ‘Topo’ function button revealed the red lined access and driveway as a narrow laneway along the back of the property. Access was in fact along this rear laneway, and apparently there was a steep descending incline extending from the house to the public street, which would preclude any real likelihood of driveway access from that road. This reinforces the importance of checking with an owner who is selling, or the buyer with regard to actual access to a land registration parcel. Access declared in the parcel register should, reflect the actual practical access. This is another example of the importance of reviewing and ensuring the accuracy of the information on the parcel register through due diligence.

This inquiry process with the owner of the practical access is not a substitute for a lawyer’s obligation to assess the legal access as of right associated with a parcel for conveyancing purposes, but it is an infinitely valuable tool.

4.0 The assembly of the Legal Description

4.1 An Introduction

After helping to identify the parcel on the provincial mapping graphics, the second part of the PDCA process involves the complete assembly of the legal description for a parcel..

From a practice perspective, it is recommended that this step of the process not be commenced until you have your search of title in hand, and a completed draft application for registration of title (AFR). It is submitted that only once you have reviewed the full search can you assess the full state of the title and thereby the appropriateness of what is and is not to be included in the legal description. As well, assessing the sufficiency or appropriateness of the legal description in light of the AFR application gives a lawyer a sense of how the description will fit with the interests to be declared on the parcel register. If a lawyer wishes, for example, to identify on the legal description a possible qualification on the fee simple, for example a possible easement, consideration has to be given to the way in which that qualification will be reflected on the parcel register- is it a burden, and is there an 'enabling' instrument?

There will be a number of decisions to make in the assembly process- for example, the appropriateness of a short form versus a long form description, the manner in which easements will be described, the extent of easements (full text), usage details, the identification of servient and dominant tenement parcels, if applicable, to name a few. The focus is on those interests which impact on the 'registered interests' component of a title, the fee simple, as those are the interests that are the subject of the government guarantee, and correspondingly, the lawyer's opinion that underlies that guarantee.

The assembly of a legal description is a bit foreign to property lawyers. In the 'old world', lawyers amended a legal description in a transaction very hesitantly, preferring instead to leave an outdated legal description intact, and only in the very clearest of cases were lawyers willing to make obvious typographical corrections, relying on the usual 'tie in' clauses that appeared at the end of the description to confirm the intent of the current owner to convey what had been

conveyed before. Often these 'tie in' clauses summarized in large measure the full state of the historic title, referencing the earliest times that the land had been conveyed, and were in particular useful if the current lot was only a portion of an earlier larger tract.

In the new world, these tie in clauses have no place in the legal description, as they represent historic, not current information and so are more properly left behind the curtain drawn. As well, there may be other changes to the legal description in the form of interests referenced in the 'new world' description that were not referenced in the old world. These may be interests which only appeared in the title search, and although they would have been reviewed by the lawyer and discussed with the client, they would not have necessarily been reflected within the legal description. The principle inherent in the assembly of legal descriptions under land registration is that all those interests which affect the fee simple, either by way of a benefit to the fee simple interest, a restriction on the use and occupation of the fee simple, or the right of another to the use of the parcel, must be incorporated into the legal description. The parcel register which results from second stage of the registration process, will in large measure mirror those interests described in the legal description so one can see the importance of ensuring the double check is carried out at the legal description stage of the process.

Interests such as development agreements for example, which historically never appeared in a legal description, may now appear within the new world legal description, if a lawyer opines that they affect the registered interests in a parcel being converted. As well, interests such as historic property designations, and prescriptive easements once documented, may also appear for the first time on the legal description.

One change in the law in the new world is that easements must all be reflected on the current description that *the lawyer* is certifying to be correct. In the old world, an easement once created, existed until it was released (or considered at law to be at an end), whether it was referenced on subsequent descriptions or not. The need for this change in the new world is readily apparent. If a curtain is to be drawn on the past, then how is a viewer to know about an easement if it is not described on the face of the current description?

It is important to recognize that the same legal reasoning that went into a transaction before the new system was introduced remains. A lawyer always had to assess the benefits and burdens that apply to a parcel, the access and so on. The difference is that in the land registration system, on a go forward basis, the amalgamation of the interpretation of rights and responsibilities must all appear on the face of the parcel register, both in the compiled description and as interests in the parcel.

The assembly process begins with an assessment of the ‘four squares’ of a parcel of land, and the attributes that affect that parcel, at least to the extent of the core of registered interests. This discussion is best framed in the context of building blocks, as that is what lawyers are in effect doing- building a description from all of the information available from the title search for that parcel.

So without further ado, let us begin our building process. The building blocks table that should be used in the assembly of every parcel description appear as an Appendix to this paper.

4.2 The four corners of the lot or ‘4 squares’

The first decision to be made in assembling the ‘4 squares’ of a parcel will be whether a short form description is appropriate to be considered as an option. The LRA provisions enable a short form description in prescribed circumstances²². An assessment of the legal status of subdivision approval for a lot for purposes of this step in the assembly process, will also be a relevant issue for the decision tree of the *Municipal Government Act* (MGA) compliance statement.²³ Mappers are instructed that parcels graphically depicted on the provincial property mapping do not necessarily represent parcels that comply with Part IX of the MGA. The graphics are adjusted to reflect what is determined to be the legal configuration of the parcel”.

The regulations provide that

...every legal description submitted to a registrar must be accurate and complete and must contain:

- (a) a description of the location, boundaries and extent of the parcel

²² LRA Admin. Regs. supra footnote 1, at s. 5(7)

²³ LRA Admin Regs supra footnote 1, at s. 5(7)(f)

- (i) in full text, or
- (ii) by reference to a unique identifier on either a plan of survey or subdivision or a plan or map under the certificate of the Registrar of Crown Lands...²⁴

‘Unique identifier’ will be interpreted to mean, from a system perspective, a label on the plan that clearly identifies the specific parcel in question. The plan should also include a specific description of the extent of the parcel being converted, in order to reference that plan rather than the full text of the legal description. One practice note- some may tend to use a short form description irrespective of how old the plan may be, in lieu of the historic full text or long form description. If however there is more information about the parcel contained in the long form description than is shown on the plan, the system is better served if the long form description is maintained. For example, if the long form shows the length of the sidelines to be 100 feet, and if the plan referenced has no reference to the measure of the sidelines, then it is submitted that the long form description should prevail.

It is further suggested that short form descriptions should only be used in circumstances in which the plan proposed to be referenced actually approves the lot being converted, and is not merely shown on the plan. A short form is not freehand- it should follow a certain proscribed format. Samples of both appropriate and inappropriately drafted short form descriptions are attached to this paper as an Appendix.

For all newly subdivided lots, the legislation requires a registrar to ensure a legal description is created for each subdivided lot and the remainder lands.²⁵ The system will generate a short form legal description, which reflects the standard format attached as an Appendix provided only that the plan of survey provides enough details.²⁶ This description may need amending, as the system does not include on the short form under this process any benefits or burdens that may apply to the newly subdivided lot. This is but one occasion when a description may require amending. Lawyers are advised to check the legal description often to ensure that it fully reflects the interests that affect a parcel of land.

²⁴ *ibid*

²⁵ LRA Admin.Regis. at s.6(1)(2)

²⁶ *ibid* at s.6(2)

4.2.1 The System review of a short form description

When a short form description is received at the LRO, the Property Mapper reviews it against a set of review standards. Parcel descriptions submitted in short form for PDCA approval must meet the following requirements:

- The description must be referenced to a registered plan of survey or subdivision, or a plan or map under the certificate of the Registrar of Crown Lands. Sketches, compiled plans, and similar items cannot be used for a short form description.
- A Land Surveyor (NSLS, PLS, etc.) must sign the plan. If signed after 1979, it must contain the surveyors certificate.
- The configuration of the parcel must be reflective of the configuration of shown on the plan. A short form description can not be used if the configuration of the parcel has changed. For example a boundary line agreement made subsequent to the plan which alters a boundary line, requires a full text description incorporating the newly defined boundary.
- The plan can only be used if the lot is part of the subject land for which the survey was done and contains survey information on at least one boundary line.
- The boundaries must be clearly defined on the plan, that is: the configuration clearly indicated on the plan in solid line. Dashed lines are only acceptable when both the direction and the distance are specified.
- All abutters must be indicated. Lot Numbers can be used as abutters.
- A uniquely identifiable reference to the parcel.

Note: For approvals where a parcel was added to an adjoining property and no lot identifier was given to the consolidated parcel, it is permissible to give “parcel A as addition to lands of Tom Jones” as a unique identifiable reference.

- An accurate and complete registry plan reference. In all cases when a registered plan reference is required the reference must contain enough information to make the reference unique and retrievable in a particular Land Registry Office. (e.g. a Drawer No., Registration Year, etc. may be required).
- A short form description can only refer to one plan reference.
- A short form description must use the registry plan reference of the plan that actually approved the lot, providing it has been registered.

- The registration district of where the plan is registered.

There are some practitioners that prefer the long form in every case, as they believe that there is a higher level of integrity in the full metes and bounds description. It is submitted however, that the integrity of the system is also well served with a short form description if the reference is to a full and complete survey of the lot as it may be the best and most complete description of a parcel being converted to the Land Registration system.

If a long form description is used because the plan does not ‘approve’ the parcel, it is still helpful to always reference the plan at the beginning of the description, as any survey fabric available will assist a subsequent lawyer who is carrying out the due diligence on behalf of a client.

4.2.2 What if the ‘4 squares’ are created through adverse possession?

For those parcels converted for which title is based either in whole or in part on adverse possession, lawyers must be satisfied that the extent of title can be properly described²⁷. For those circumstances in which adverse possession is asserted for an interest in a parcel which is otherwise described in a deed (ie. a one eighth interest by a tenant in common), a lawyer is not required to describe or assess the extent of title. If however a squatter claims a mature possessory interest on a portion of a parcel, the lawyer responsible for conversion must be satisfied that the extent of the title can be properly identified. This may necessitate the requirement for the preparation of survey fabric to determine extent, as lawyers are not generally positioned to make this determination. Inherent in the very nature of ‘possessory’ title is the determination of what it is that is being ‘possessed’. Others will speak today about the manner in which these titles can, and should be documented.

4.2.3 How many parcels are there?

When reviewing the Property Online graphics with an owner, you will have to identify whether the one parcel they thought they owned is considered to be more than one by the system. For example, if a lot as originally conveyed, has been divided practically into two parcels by the

²⁷ Consider Professional Standards- Real Estate *supra*, at footnote 6, Standard 3.3 Prescriptive Rights, and also Standard 1.5 Documentation

construction of a public road, then you will have to request a PID assignment for one of the parcels. I recently converted two parcels of land, described as such on the owner's deed, when in fact as a result of roads, and watercourses, there were seven parcels that were required to be treated as separate parcels²⁸.

4.2.4 What if the owners can't identify their parcel?

The legislation and regulations provide that if the mapping graphics do not exist, the parcel owner must apply for the assignment of a PID, and provide enough information as will enable the preparation of a graphic representation of a parcel before a PDCA can be initiated.²⁹ If an owner can identify the location of their parcel relative to adjoining owners, then that information will likely be sufficient to enable the assignment of a PID.

Experience has shown that there are very few parcels that cannot be located to the standard imposed by the LRA and regulations. When additional information is needed, few owners are called upon to provide survey information. Landowners typically know at least one of their abutting neighbours, or else can make reference to their parcel by using surrounding natural or man-made landmarks like a church or a crossroad.

4.2.5 Defacto consolidation

One of the issues for the property practitioner when considering what constitutes the '4 squares', is the issue of whether it is appropriate to consolidate parcels which may historically have consisted of more than one lot, but which, practically, have been used as one lot. For example, when acting for an owner in the north end a few years ago, it was discovered in the title search that historically the legal description consisted of four lots, but the property was only ever used as one lot with one house and one garage. The amendments to the *Municipal Government Act*³⁰ enable a one way election when converting properties, to consolidate these 'bits and pieces' into one parcel, without the formal requirement of a consolidation plan prepared by a surveyor.

²⁸ See *Kent Homes Limited v. Meadowland Development Company Limited*, (1984) 65 N.S.R. (2d) 352 (NSSCTD) re public roads sever parcels. See LRA Admin. Regs. Subsections 5(17) & (18) re watercourses.

²⁹ LRA Admin. Regs. *supra* footnote 1, at s.5(6)

³⁰ *Municipal Government Act*, s.268A

When considering this option, lawyers are well advised to consult with a surveyor with regard to the preparation of the consolidated description. It may be that there is enough survey fabric in a plan, or in the detailed descriptions to prepare a consolidated plan without undue cost to the owner. When electing this option, the owner is required to file a declaration that enables the consolidation, as they must attest to having used the bits and pieces as one lot at least since April 15, 1987, the grandfathering date prescribed in the *Municipal Government Act* for formal subdivision approval for conveyancing. Check with your local mapper to confirm which PID will be retired if in fact there are separate PID's shown for the 'bits and pieces' being consolidated.

4.2.6 Unsupported Characters in the Parcel Description in the system

While there are reminders built into the system to ensure that lawyers and staff are warned if an unsupported character in the application for a parcel description, you should ensure your staff are familiar with the prohibited characters to avoid unnecessary changes. For example, the system will not accept a degree character, a curly quote or a fraction symbol.³¹ There can be no run on paragraphs- each new boundary must begin with a new paragraph. One further piece of advice- proof read your legal description to avoid unnecessary rejections.

4.3 The 'Saving and excepting' provisions in a PDCA

It may be that in your assessment of what constitutes the '4 squares' of a parcel, that it has historically only identified by what is left after the 'saving and excepting' lots are removed from an original larger parcel- often referred to as a 'remainder' parcel. Ideally, lawyers should discuss with an owner the merits of having a modern description prepared for this remainder piece, as it is the best means of clearly identifying the parcel for future owners.

Lawyers are sometimes tempted to re-draft the legal description to 'skirt around' excepted parcels. This is dangerous and should be left to a surveyor, or undertaken with great care. If you must resort to describing a parcel by that portion that is remaining after the 'saving and exceptions' are listed, examine both the conveyances in the historic title, and the mapping on Property Online, to ensure that all of the exceptions are captured. If there is a plan or subsequent survey fabric, which clarifies the parcel that is the subject of the PDCA application, reference to

³¹ See the Service Nova Scotia website for User Hints and Tips- PDCA- in Appendix

the plan is preferable to a long form ‘remainder’ description in the absence of a newly prepared legal description.

4.3.1 The system criteria for Mappers of the ‘saving and excepting’ descriptions

Mappers are told the following with respect to “savings and exceptings”:

- Do a cursory comparison of the submitted description with last conveyance document description and review the graphics for the purposes of identifying any saving and exception clauses missed from that description (do not go back to previous documents).
- In all cases when a registered plan reference is required the reference must contain enough information to make the reference unique and retrievable in a particular Land Registry Office.(e.g. a Drawer No., Registration Year, etc. may be required). For savings and exceptions that appear in the graphics but are not included in the PDCA, a comment is required to acknowledge the anomaly.

4.4 The Benefits as attributes of the parcel description

The Administration Regulations further define what is required in the assembly process in addition to the ‘4 squares’. One of the most challenging components of the building process is the identification and description of the ‘benefits’ that are appurtenant to the registered interests in a parcel.³² A lawyers’ opinion for these interests are a further foundation piece for the guarantee that flows from the government to an owner in the form of a Certificate of Registered Ownership.

Some of these ‘benefits’ will be readily apparent, as they will have been consistently described in the historic title- a further support for the proposition that the full title search should be in hand before a PDCA is submitted.

Other benefits however, will be less apparent. For example lawyers may opine that development agreements are either benefits or burdens to the registered interests in a parcel, and if so, must add reference to this kind of interest in the legal description.

³² LRA Admin. Regs. supra footnote 1, at s.5(7)(c)

Whatever the benefit that is identified, a lawyer must ensure that there is good title for the benefit- and that if created during the marketable title time frame, that it was properly created. For those that are described in the root document at the beginning of the marketable title time frame, a grant may be presumed.

The LRO regularly receives questions about why the regulations require that benefits appear in the legal description. There are two reasons for this. First, the goal is to have as much relevant information as possible about the parcel's attributes available for viewing in the parcel register. Whereas many "legacy" or pre-land registration documents are not scanned, collecting the attributes in the legal description means that a searcher can view the relevant details without having to go into the LRO. Second, all benefits (and burdens) that are enabled in the same instrument are incorporated into the parcel's title with a single benefit reference.³³ This eliminates duplicate or triplicate benefit entries with the same enabling instrument in the parcel register.

4.4.1 The Format of benefits in the PDCA

The format of describing benefits and burdens in the legal description should be standardized, so that they are easily identified upon a review of the description by mappers and lawyers. The standardization was first recommended by Garth Gordon, Q.C. in one of the early education initiatives presented for practitioners. When identifying either benefits or burdens, list them by "FIRST BENEFIT, SECOND BENEFIT" or correspondingly, "FIRST BURDEN, SECOND BURDEN". In this way, the description is easily checked for the appurtenances, and also more quickly understood by the owner layperson.

When benefits are described in the parcel register for the second phase of the title registration (AFR) there is specific language required by the system. It is recommended that this language also be considered when identifying benefits in the legal description as well.

4.4.2 Prescriptive benefits-Document where possible

³³ LRA Admin. Regs. *supra* footnote 1, at s.11(5) states:

"(5) A reference to an enabling instrument in a parcel register enables all benefits and burdens referred to in that instrument."

If there is a prescriptive easement benefiting a parcel, it is recommended that lawyers document the interest, recording the evidence once documented in the parcel register, and reflect it in both the legal description and thereby the parcel register, notwithstanding it may qualify as an ‘overriding’ interest that is preserved under the Act.³⁴ As recommended in the Professional Standards- Real Estate³⁵, these interests should be converted to formal interests which are then capable of being incorporated into the formal title attributes on the AFR, as to do otherwise results in some risk that an interest may not qualify for those interests preserved as ‘overriding’ in the legislation.³⁶

4.4.3 Multiple benefits enabled by the same instrument

PDCA submitters are reminded that subsection 11(5) of the *Land Registration Administration Regulations* states:

(5) A reference to an enabling instrument in a parcel register enables all benefits and burdens referred to in that instrument.

This avoids multiple entries for interests with the same enabling instrument in the parcel register, but lawyers are reminded that *all* of the benefits affecting a parcel must be separately identified on the legal description, irrespective of the fact that the same instrument may enable them all. So, if one deed is the enabling instrument for an easement for utilities, as well as an easement for a right of way, there would be two benefits described in the legal description for purposes of the PDCA, but only one reference to that enabling instrument need be entered in the parcel register. The description is the ‘control’ document, which is complete with regard to describing all of the individual interests that affect the parcel of land, other than those interests that are recorded.

Further, you should ensure before listing an attribute as a benefit on the PDCA, that there is an enabling instrument identified for reference in the parcel register, as you cannot enter a benefit on the parcel register without it.

³⁴ *Land Registration Act*, supra footnote 1, at s.73

³⁵ supra footnote 6, at 3.3 Prescriptive Rights

³⁶ *Land Registration Act*, supra footnote 1, at s. 73

4.4.4 The Pairing of Interests- Identifying the dominant/servient relationship

One of the formal concepts incorporated into the new system, is that of ‘pairing’ of interests. For every benefit that is created as an appurtenance in favour of one parcel, there is likely a corresponding burden over another. If one parcel is granted an easement access, the parcel over which the easement passes is the ‘servient’ tenement parcel, must be noted on the AFR. This concept is one which should be kept in mind whenever an easement benefit is placed in a parcel register. It must be referenced in the legal description, added to the parcel register, and the ‘paired’ parcel interest identified.

4.4.5 Access as an easement benefit to a parcel

A lawyer, when opining on the state of title must confirm the nature of the access, if any, to the parcel and whether the access is public or private.³⁷

When a benefit travels over many parcels, and those parcels cannot be identified with any real certainty, then the submitter is permitted to describe the servient tenement as ‘Various owners’.³⁸ However, lawyers are cautioned not to resort to this simply because it is an easier way of describing multiple servient tenements.

When a benefit travels over another parcel of land, the lawyer assembling the description should examine the legal description of the servient parcel, and consider the implications if it does not reference the interest that is being described.³⁹ Further, a lawyer should examine plans arising in the search, and any other available survey information pertaining to the parcel, to assess whether the easement granted and the traveled way correlate, and advise the owner/client with regard to any material discrepancies.⁴⁰

What we have described to date, are those benefits that are being documented at the time of a PDCA, which were created prior to the commencement of an application. What we will now

³⁷ Professional Standards- Real Estate, Standard 2.3- access

³⁸ See Service Nova Scotia Guide to Placing Easement Benefits and Burdens in the Parcel Register- Appendix

³⁹ supra footnote 36

⁴⁰ ibid

describe are those benefits created after the registration process is complete for a parcel, and it has become an 'LR parcel'.

4.4.5 Benefits created after registration

If a benefit is added to a parcel after registration, the process to have that benefit registered in the parcel register will depend on whether the parcels affected are LR parcels⁴¹. If an easement has the effect of benefiting a LR parcel (dominant tenement), and burdening a non LR parcel (servient tenement), the owner of the dominant tenement, when making an application to add the benefit to the parcel register, must include an abstract of title to the burdened parcel⁴², and an opinion of title Form 8 for the burdened parcel.⁴³ The application must also be accompanied by an application to amend the legal description to reflect the newly added benefit to the title.⁴⁴

It is not always known at the time an agreement of purchase and sale is entered into whether the easements that may have been agreed to are being newly created, or are already in existence. It is suggested however, that the seller's lawyer should be responsible for converting the seller's parcel prior to the sale transaction being concluded, and for amending the parcel register to reflect the newly created benefits. To do otherwise creates a hardship for the buyer's lawyer, when the seller's lawyer already completed the title inquiries necessary for the creation of the new easement.

If an easement benefit is newly created in a deed on a revision of ownership after a parcel has been converted to land registration, and the servient tenement is an LR parcel, then a lawyer must certify a copy of the instrument that creates the easement benefit, (ie. the deed) and file it with a separate Form 24 for the servient tenement parcel, thereby ensuring the 'mirror' effect of the pairing of interests in both the dominant parcel and servient parcel registers. So the original deed is filed with a cover sheet for the parcel that was purchased, and a certified copy (certified by the lawyer) of the deed is filed with a separate cover sheet for the servient tenement LR parcel. This process is repeated for multiple parcels that may be affected by the easement. As

⁴¹ LRA Admin Regs. *supra* footnote 1, at s.8

⁴² *ibid.* at s.8(2)(b)

⁴³ *ibid.* at s.8(2)(c)

⁴⁴ *ibid.* at s.8(2)(e)

many certified copies of the easement document as there are parcels affected must be filed with the respective cover sheets (Form 24), although there will only be one charge for one instrument even if multiple parcels are affected.

4.4.6 Amend the PDCA when adding a benefit to a parcel –Form 24 undertaking

As noted earlier, once an easement newly created is filed in the LRO, the PDCA for each affected parcel will require updating by an amendment application.⁴⁵ The legal description must at all times reflect the current state of all of the benefits that are appurtenant to the parcel. Lawyers are cautioned to consider at the time of closing whose responsibility it will be to complete the amendments required to the PDCA's that are affected once the documents that give rise to either a newly created benefit or burden are successfully registered. The Form 24 cover sheet requires a lawyer to certify that the description included in the document attached to Form 24 is either identical to the approved description, or requires the lawyer's undertaking to revise the legal description once the document is accepted for registration so that the description will reflect the new interest created with the document filed. This undertaking is one that must be fulfilled, as with all undertakings, in a timely manner.

4.4.7. Easement benefits referencing 'Grantor'

It was often the case in the old world in which easements when created were created in favour of the Grantee to be enjoyed in common with the Grantor. This language is erroneous in the land registration system. The parcel which is to have the benefit reserved must be explicitly identified in the legal description. So, the easement in favour of the 'Grantor' when originally created will now read that it is in favour of the owner from time to time of Lot X, for example. As well, those easements which were in the historic title created by a reservation, will need to be carefully assessed to identify the parcel that is intended to benefit from the expressed reservation.

⁴⁵ LRA Admin Regs. *supra* footnote 1, at s.8(2)(e)

4.4.8 Extent of Easement must be described unless shown on a plan

The Legislation Working group (that framed the initial regulations under the LRA), and the external advisory working groups that followed⁴⁶ all advocated the concept that easement and other benefits to the fee simple should appear as part of the legal description to a registered parcel. This was, in part, a reflection of the conveyancing practice that developed in Nova Scotia, whereby easements were added to descriptions instead of being placed in a separate grant document. The requirement also reflected a desire to make the parcel register a single window into relevant information about the parcel. The requirement for full text or plan reference originated from the reality that not many foundation instruments were scanned. Unless the instrument was scanned, a viewer could not point and click on a hyperlink to view the supporting document. The greater good, it was reasoned, would be achieved through requiring full text or plan references. This requirement is set out in the Administration Regulations⁴⁷.

Description of the extent of an easement is fulfilled if it can be described with reference to the parcel that is being converted. For example, if the easement is for ingress and egress over 8 feet in width extending the length of the lot on the northern side, then this would be included in the description of the extent of the easement in the legal description.

4.4.9 Benefits for a Condominium Unit

There is a prescribed manner of describing benefits and burdens for a condominium parcel in a PDCA. They are set out in the *Land Registration Act Administration Regulations*.⁴⁸ The requirement is for a generic description of the benefits using only the following words “together with the common interest appurtenant thereto”.⁴⁹ The individual benefits that apply to the condominium corporation will be separately described in the parcel register at the time of the Application for Registration of title to a parcel (AFR).

4.5 Burdens on the parcel description

⁴⁶ the External Land Registrations Procedures Advisory Working Group [AWG] and Procedures Advisory Committee [PAC]

⁴⁷ LRA Admin Regs. *supra* footnote 1, at s.5(7)(c)

⁴⁸ LRA Admin.Reg. *supra* footnote 1, at s.5(8)(c)

⁴⁹ *ibid.*

The process for either placing burdens on a parcel register is similar in many respects to the benefit process. A lawyer submitting a PDCA must include a description for all burdens either in full text or by reference to a ‘unique identifier’ on a plan of survey or subdivision.⁵⁰

Each burden must be separately described in the PDCA, and the format should follow that recommended for benefits in Section 4.4.1 herein (ie. FIRST BURDEN, SECOND BURDEN etc.) In this way, anyone reviewing the legal description can easily identify those burdens affecting the parcel, including the parcel owner.

There will be burdens that are not necessary to mention in the PDCA because they are protected by legislation. For example, the *Land Registration Act*⁵¹ provides that if the burden arises as a result of the municipal approval process, then it will be overriding, and there will be no need to reference it in the legal description. An example of this is the 100 year flood plain, which is required to be shown on a plan of subdivision, as a result of the municipal subdivision process. Another example may be a watercourse, to the extent that it vests in Her Majesty the Queen in right of the Province as this too is protected by s.73 of the *Land Registration Act*.

In the introduction, reference was made to those burdens that historically were not included in the legal description that might be included in the LRA world. These might include development agreements, if a lawyer opines that the agreement affects the fee simple ownership of the parcel. These agreements, although appearing perhaps on their face to be spent if the project has been completed, there may be ongoing use issues, and if there was a fire destroying the building on the parcel, the restrictions outlined in the development agreement may revive. Another example of a newly included burden might be the ‘historic’ designation of a property under the Heritage legislation.

When converting a parcel in a subdivision, or condominium project, check adjoining parcels to see how other lawyers have described the benefits and burdens affecting a parcel. This can act as

⁵⁰ LRA Admin Regs, *supra* footnote 1, at s.5(7)(d)(i) and (ii)

⁵¹ *supra* footnote 1 at s.73

a bit of a double check, and may give you some insight into the manner in which consistency is to be achieved.

4.5.1 Creating easements over lots with common ownership –made easier

Section 19A of the *Land Registration Act* provides that in the new world, an easement can be created by a person over land that is owned by that same person. This is a departure from the law prior to the *Land Registration Act*. Further the provision confirms that the easement continues to exist notwithstanding a subsequent vesting of the dominant and servient tenements in the same person unless there has been an express release of the easement. This is another way of stating that unity of ownership will not defeat an easement without an express release.

This principle is similarly reflected in s.61 of the *Land Registration Act* which deals with restrictive covenants. A developer can create restrictive covenants prior to conveyance of the lots, over lands that are still in the name of the developer. This provides some means of control in the hands of the developer, to ensure that the area of land to be affected by the restrictive covenants are clearly identified.

4.5.2 ‘Possible Easements’ do not qualify as burdens

If a lawyer has not concluded that a burden exists, then it does not go into the parcel register and does not appear on the legal description in the PDCA. Rather ‘possible’ burdens might appear in the Textual Qualification section of the parcel register, if appropriate.

4.5.3 Early conversion- and consultation with the Buyer’s Lawyer

While it is every lawyer’s aim to have a parcel conversion process completed as early as possible in a transaction, do not hesitate to consult with a buyer’s lawyer, in situations in which there may be issues that trigger the exercise of professional judgment.

4.5.4 Full text required of extent of burdens

The comments herein in paragraph 4.4 8 with regard to benefits applies to burdens as well. Burdens must be described in full text, where applicable, unless reference can be made to an

approved plan or plan of subdivision.⁵² The exception to this requirement is made for restrictive covenants, development agreements, and utility interests, and in these cases reference can be made to a book and page where the interest either arises, or is fully described.⁵³

4.5.5 Usage details of easements- benefits and burdens

Usage details are a reflection of the one-window approach for the parcel register. It was felt that forcing a viewer to travel to the Land Registration Office in order to assess the title to a parcel was not in keeping with the philosophy of the Registry 2000 vision. Clause 5(7)(e)(ii) of the *Land Registration Administration Regulations* sets a 5,000 character minimum in order for a submitter to reference usage details by book and page or document number. This was instituted to address the propensity of submitters to try to short-cut usage details by reasoning that every benefit had a use and therefore a document number could reference all benefits.

Mappers are instructed to do a cursory comparison of the submitted description with the last conveyance document description for the purposes of identifying if any usage information is missed from that description. If by referenced document, mappers may but are not expected to go back to the reference document to verify that the regulations are being followed (i.e. the document references only one easement and those details exceed 5,000 characters.

4.6 Municipal Government Act or ‘MGA’ compliance statement

Clause 37(4)(f) of the LRA requires that each application to register title to a parcel must be accompanied by evidence that Part IX of the *Municipal Government Act* (MGA) has been complied with or certification by the qualified solicitor that Part IX does not apply. Part IX contains the subdivision provisions of the MGA.

When the *Land Registration Administration Regulations* were first adopted, an MGA compliance statement did not form part of the description requirements. AFR bundle audits revealed that most registering lawyers were certifying MGA compliance in blank or else were using terms like “existing lot” to explain why no subdivision approval was required or obtained for the parcel.

⁵² LRA Admin. Regs, supra footnote 1, at s.5(7)(i)

⁵³ *ibid.* at s.5(7)(iii)

This approach was seen as not helpful but more importantly it was seen as counter-productive to keep the MGA compliance status away from public access by housing it in the AFR bundle.

An MGA compliance statement is not required for condominium units. Since before the validation date of April 16, 1987, all condominium corporations have needed an occupancy permit in order for their declarations to be accepted for registration by the Registrar of Condominiums.

The mappers are not vetting the choice of MGA compliance statements. As a general proposition they are merely checking to see that one of the required statements is present. Obvious errors by the submitter may, however, be flagged.

There are six MGA compliance options. Whichever one is appropriate, the system is trying to ensure that the PDCA submitter has turned his or her mind to the issue of whether the parcel is a “legal parcel”, i.e. not in contravention of the MGA.

A few tips and tricks about the six options.

The first compliance statement is:

- (i) "The description for this parcel originates with a deed dated (insert date), registered in the registration district of (insert registration district) in book (insert book number) at page (insert page number) and the subdivision is validated by Section 291 of the Municipal Government Act."

The wording “the description for this parcel originates...” will be amended in the future to read “this parcel originates...” because a 2002 retracement plan of a parcel that first appeared in a registered instrument in 1959 might not be seen as qualifying for the first compliance statement as currently worded. That of course was not the intention.

The second compliance statement is:

- (ii) "The parcel originates with an approved plan of subdivision that has been filed under the *Registry Act* or registered under the *Land Registration Act* at the Land Registration Office for the registration district of (insert registration district) as plan or document number (insert plan or document number).",

When using this option, lawyers are reminded that the mappers will be looking for the reference to contain enough information to make the reference unique and retrievable in a

particular Land Registration Office. (e.g. a Drawer No., Registration Year, etc. may be required, depending upon the historic practice in the registration district).

This compliance option is meant for use when the approved plan either created the parcel explicitly on the plan or by implication (it approved a parcel that left the LUS as a remainder). It is not to be used when it approved Lot 1 but the PDCA is for Lot 5, for example.

The third compliance statement is:

- (iii) "The parcel is exempt from the requirement for subdivision approval under the Municipal Government Act because (state reason for exemption)."

Obviously the more precise the reason, the more helpful it will be to viewers of the register.

The fourth compliance statement is:

- (iv) "The parcel is an original Crown Grant or island (select one) and is not a subdivision."

The fifth compliance statement is:

- (iv) "The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.",

This MGA compliance statement option was inserted in the regulations in direct response to the demands of a number of lawyers, who saw such a statement as repairing a gap in the available options. Those lawyers must have been practicing in areas with a well-established date for the adoption of planning or subdivision control. Too many municipalities have unclear, contradictory or unknown dates, with the result that lawyers in many regions of the province are left in the dark about when the compliance option should be chosen. Future regulations amendments may drop this option entirely. This will not alleviate a lawyer from the professional obligation to assess and verify the approval status of a lot in compliance with the *Municipal Government Act*, which was not impacted by the *Land Registration Act* except in the legislated requirement to declare the means of compliance.

The sixth and final compliance statement is:

vi) "The parcel was created by a repeal of subdivision and the notice of repeal was registered on (insert date) as instrument number (insert instrument number).".

This sixth option is rarely used and is meant to cover off the possibility that a parcel was created as a result of a repeal of subdivision.

Over the months and years, SNSMR has received every possible permutation and combination for changes to the MGA compliance statements. These include adding even more options (e.g. add "MGA does not apply—state reasons)and eliminating all of them in favour of a check box that confirms that the parcel is a legal parcel.

The Procedures Advisory Committee will continue to consider all options as and when the next PDCA regulations changes are being considered.

5.0 Some Miscellaneous Tips

5.1 Changes to a legal description- an ongoing assessment

The Administration Regulations require that there will be many occasions for which a lawyer is required to amend the legal description approved in the PDCA process.⁵⁴ In any application to amend the description, all of the provisions of Administration Regulation 5 apply. If the benefits, or burdens, or extent of title are altered for any reason, the owner must make an application to amend the legal description, and provide comments in the comments field as to the reasons for the amendment.⁵⁵

Every time the registered interests or appurtenances in a parcel change, so too must the legal description be amended to reflect the changed status. As with the initial application, this process is electronic, and follows the same basic process as for the initial application, except the fields will be pre-populated with the parcel description that has previously been submitted, so that the

⁵⁴ LRA Admin. Regs. *supra* footnote 1, at s.7

⁵⁵ *ibid.* at s.7(2)(3)

amendment can be made with ease. Lawyers should constantly assess the status of the legal description to ensure that it at all times fully reflects the true and complete state of title.

5.2 Boundary Line Agreements

Boundary line agreements are required to be referenced in the legal description. This can be done by reference to the registration particulars of the agreement or by a surveyor's amendment of the description incorporating the agreement particulars.⁵⁶

5.3 Approval of a PDCA 'Subject to Correcting Description'

A mapper may approve a PDCA even though a correction may be required to the form of description included in the PDCA application.⁵⁷ The application will be flagged as approved "subject to correcting description". The correction may be something as straightforward as a typographical mistake, but in any event this form of approval permits a draft AFR to be submitted to allow the conversion process to proceed. The correction must be made however, and approved prior to the final submission of the AFR.⁵⁸

5.4 Unrecorded Plans

If in the course of a conversion a plan is discovered which is not filed at the Registry of Deeds, or Land Registration Office, lawyers are encouraged to file them as there is no cost for the filing, and it serves to further the integrity of the fabric of information for the provincial mapping graphics.

5.5 Use the 'Approved' description in your conveyance document

While practices have varied since the implementation of the LRA, it has become standard to use the 'approved' description in the conveyance document rather than a database description from which the PDCA may have been submitted. It is suggested that it is easier to check for the integrity of the description and avoids the requirement of a word by word comparison with the approved description for completeness.

⁵⁶ PDCA Policy and Standards of Service Nova Scotia and Municipal Relations (See Appendix)

⁵⁷ LRA Admin. Regs. *supra* footnote 1, at s.5(13)

⁵⁸ LRA Admin. Regs. *supra* footnote 1, at s.5(14)

6.0 Summary Comments

Ironically, when we started this process, we had fully expected to be able to describe the full complement of the issues that arise in a PDCA process. As can be seen from the change in the title of this paper, it seems that we have only really just begun to identify the issues with this initial discussion piece.

Whatever its limitations, we found the exercise of collaboration from our differing perspectives to be immensely gratifying, and hope that it is the beginning of a 'live' document that becomes more fulsome over time. We also hope that it provides a useful resource for lawyers as we strive to create an environment that is more naturally intuitive, and one in which the practice of law compliments the system within which we now practice.

Appendices

Appendix 1	Sample Confirmation of Graphics
Appendix 2	Building Blocks for Legal Descriptions
Appendix 3	Sample Format Short Form Description
Appendix 4	SNSMR Resource Material (also on website)
Appendix 4a	Guide to Placing Easements in Parcel Register
Appendix 4b	System Steps
Appendix 4c	PDCA Process Flow Chart
Appendix 4d	User Hints and Tips - PDCA
Appendix 4e	PDCA Process Steps
Appendix 4f	PDCA Checklist for Most Common Errors
Appendix 4g	PDCA Standards for Descriptions of Existing Consolidated Parcels

Appendix 1

Property: (Civic address)

PID:

Province of Nova Scotia

County of Halifax

Confirmation of Parcel Graphics and Other Information for Land Conversion

We, ** and **, of Halifax, Province of NS, do confirm:

1. We are the owners of the above-noted property;
2. We have reviewed the legal description included in the application for a Parcel Description Certification Application (PDCA) for the PID shown on the provincial mapping graphics plan attached hereto;
3. We confirm that the graphics on the plan attached hereto appear to match the legal description for the Property;
4. We acknowledge that the submission of this PDCA does not constitute an expression or opinion as to location, boundaries or extent of the parcel and that the government guarantee of ownership after conversion does not certify the location of the boundaries or the extent of the parcel and that our solicitor has explained this limitation to us;
5. The access to the Property is by ****(public/private) road;
6. We authorize *****, Barristers and Solicitors to migrate the title of our property represented by the PID noted above under the *Land Registration Act*.

We make this solemn declaration conscientiously believing it to be true and knowing it to be of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at Halifax, in the
County of Halifax, Province of Nova Scotia,
this 31st day of January, 2006.

A Barrister of the Supreme Court of
Nova Scotia

Client vendor

Client vendor

APPENDIX 2
LEGAL DESCRIPTION REQUIREMENTS: PDCA
 effective May 16, 2005

ITEM	REQUIREMENT
1. Description of the location, boundaries and extent of the parcel	Full text or plan reference
2. Description of all parcels excepted out of the legal description	Full text or plan reference
3. Description of all benefits	Full text or plan reference
4. Description of all burdens	Full text or plan reference, except book/page reference for development agreements, utility easements or restrictive covenants if only 1 per document referenced
5. All information pertinent to the use of easements	full text or by doc reference if details exceed 5,000 characters & if only 1 easement usage details is in referenced document
6. MGA compliance statement	<p>(f) one of the following statements, duly completed, that verifies that the parcel complies with or is exempt from the subdivision provisions of Part IX of the <i>Municipal Government Act</i>:</p> <p>(i) "The description for this parcel originates with a deed dated (<i>insert date</i>), registered in the registration district of (<i>insert registration district</i>) in book (<i>insert book number</i>) at page (<i>insert page number</i>) and the subdivision is validated by Section 291 of the <i>Municipal Government Act</i>.",</p> <p>(ii) "The parcel originates with an approved plan of subdivision that has been filed under the <i>Registry Act</i> or registered under the <i>Land Registration Act</i> at the Land Registration Office for the registration district of (<i>insert registration district</i>) as plan or document number (<i>insert plan or document number</i>).",</p> <p>(iii) "The parcel is exempt from the requirement for subdivision approval under the <i>Municipal Government Act</i> because (<i>state reason for exemption</i>).",</p> <p>(iv) "The parcel is an original Crown Grant or island (<i>select one</i>) and is not a subdivision.",</p> <p>(v) "The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.", or</p> <p>(vi) "The parcel was created by a repeal of subdivision and the notice of repeal was registered on (<i>insert date</i>) as instrument number (<i>insert instrument number</i>)."</p>

Appendix 3
Short Form Description Format

Municipality/County: Halifax Regional Municipality

Designation of Parcel on Plan: Lot 1

Title of Plan: PLAN OF S/D SHOWING LOTS 1 AND 2 Bloggs Subdivision

Registration District: Halifax County

Registration Reference of Plan: Plan No. 36180, Drawer 234

Also include all benefits and burdens.

Also include the appropriate MGA subdivision compliance statement

A Guide to Placing Easement Benefits & Burdens in the Parcel Register And Updating Easements on Subsequent Revisions & Recordings

Easement Benefit (Appurtenance)	
Category on the AFR: Appurtenances/Benefits (Individual or Enterprise Owner)	Interest Type: Easement / Right of Way Holder (Benefit) Place "Together with a Right of Way/Easement" in the interest holder field in the Enterprise sub-screen. If the Servient Tenement PID is known and is also being entered, the interest type is Servient Tenement PID. Note: For an easement created by prescriptive rights, you must have a previously recorded instrument, which creates this interest in order to add it as an appurtenance on the AFR. If the easement is evidenced by a plan, the plan reference can be added to the <u>certified</u> parcel description via an amending description.
Easement Burden (qualification)	
Category on the AFR: Burdens/Qualifications (Individual or Enterprise Owner)	Interest Type: Easement / Right of Way Holder (Burden) <ol style="list-style-type: none"> a) If the easement benefits a utility (e.g. NSPI, Town of Truro), enter the name of the interest holder. b) If the easement benefits a particular parcel or parcels, enter the dominant tenement PID(s) rather than entering the name of the parcel owners. Note: If the PID is used, you must put the PID in as an Enterprise. If the burden does not have an associated recorded instrument in the Registry, choose unregistered 'yes' on the AFR. c) If the easement benefits many parcels "various owners" may be placed in the interest holder field on the Enterprise sub-screen, instead of listing a large number of PIDs on the AFR d) If the easement does not benefit a particular parcel or if the parcel(s) cannot be accurately identified, the person(s) that benefit(s) from the easement may be listed as the interest holder(s) instead of the PID. e) If an easement has not been granted yet, but will be on the subsequent conveyance, do not place the easement in the parcel description to be certified or on the AFR. The parcel description should be certified without the easement and then amended at the closing of the sale for the new parcel when the easement is added and the parcel register is revised (Form 24).

Subsequent Transactions – Easement Benefits	
Existing Easement Benefits When The Registered Owner is Revised	<p>If the parcel register already notes: "Together with a Right of Way/Easement Benefit", nothing has to be changed or added on section 6 of the Form 24 when the registered ownership of the parcel is revised. This easement will remain there for the new owners.</p> <p>If the parcel register lists the Registered Owners as Easement Benefit Holders, these names may be removed and "Together with a Right of way/ Easement" noted instead, as described above.</p>
New Easement Benefits Created After Conversion	Use Form 24 to add a new easement and do an amending PDCA (see sample forms for particular scenarios on the Registry 2000 website).
Easement Benefits left off the AFR by Mistake	Form 17. Request by Owner to Rectify the Registration is required to add the easement /right of way holder (benefit). Reference the previously recorded enabling instrument.

Subsequent Transactions – Easement Burdens	
Existing Easement Burdens When the Registered Owner is Revised	The easement burden or qualification does not change: it remains as is in the parcel register.
New Easement Burden Created After Conversion	Use a Form 24 to add the qualification to the registered interest.

Easements at Subdivision	
Easement Burden Inherited from Parent	The easement gets inherited from the parent parcel during the processing of the subdivision by the property mapper. Form 45 is used to remove easements or other interests incorrectly inherited during the subdivision process. There is no charge for filing a Form 45.
Easement Burden Created at the Time of First Conveyance of the New Parcel	A revision is done with a Form 24 attached to the conveyance document to allow the revision of the ownership and the adding of a new easement burden. PID(s) should be used as the 'interest to be added' if the dominant tenement PID(s) is/are known.

Flagging of Easements Affecting Land Registration Parcels

During the conversion of a parcel, if there is an easement benefit or easement burden affecting that parcel, and if the PID for the dominant or servient tenement is provided on the AFR, the system will create an easement relationship between the two parcels. This relationship will be apparent from the details view in Property Online. The system will also alert staff during the processing of the draft AFR if:

- A previously registered parcel indicated that the parcel now being registered is either a dominant tenement PID or a servient tenement PID and the interests shown in the draft AFR disagree with this
- The role (dominant or servient) on a related parcel is conflicting with the stated role on the parcel now being converted

Easement Flag in Traditional View of the Parcel in Property Online

Overriding interests (such as utility easements) do not need to be recorded in the parcel register in order to be valid interests in the parcel. In order to give notice to land owners that their ownership may be subject to overriding interests, there is a note at the bottom of the parcel register indicating that the interests listed in the parcel register are subject to overriding interests. Even though it is not required, some interest holders would prefer to have their overriding interests noted in the parcel register. As a result, some of these interest holders are refreshing overriding interests that were recorded in the traditional registry more than 40 years ago. They are doing this by registering a statutory declaration pursuant to the *Registry Act* listing the unregistered PIDs affected by the overriding interest. This will make it easier for these interests to be found during the 40year title search and therefore be recorded in the parcel register on conversion. The property mappers will index these statutory declarations against the PIDs referenced in the document.

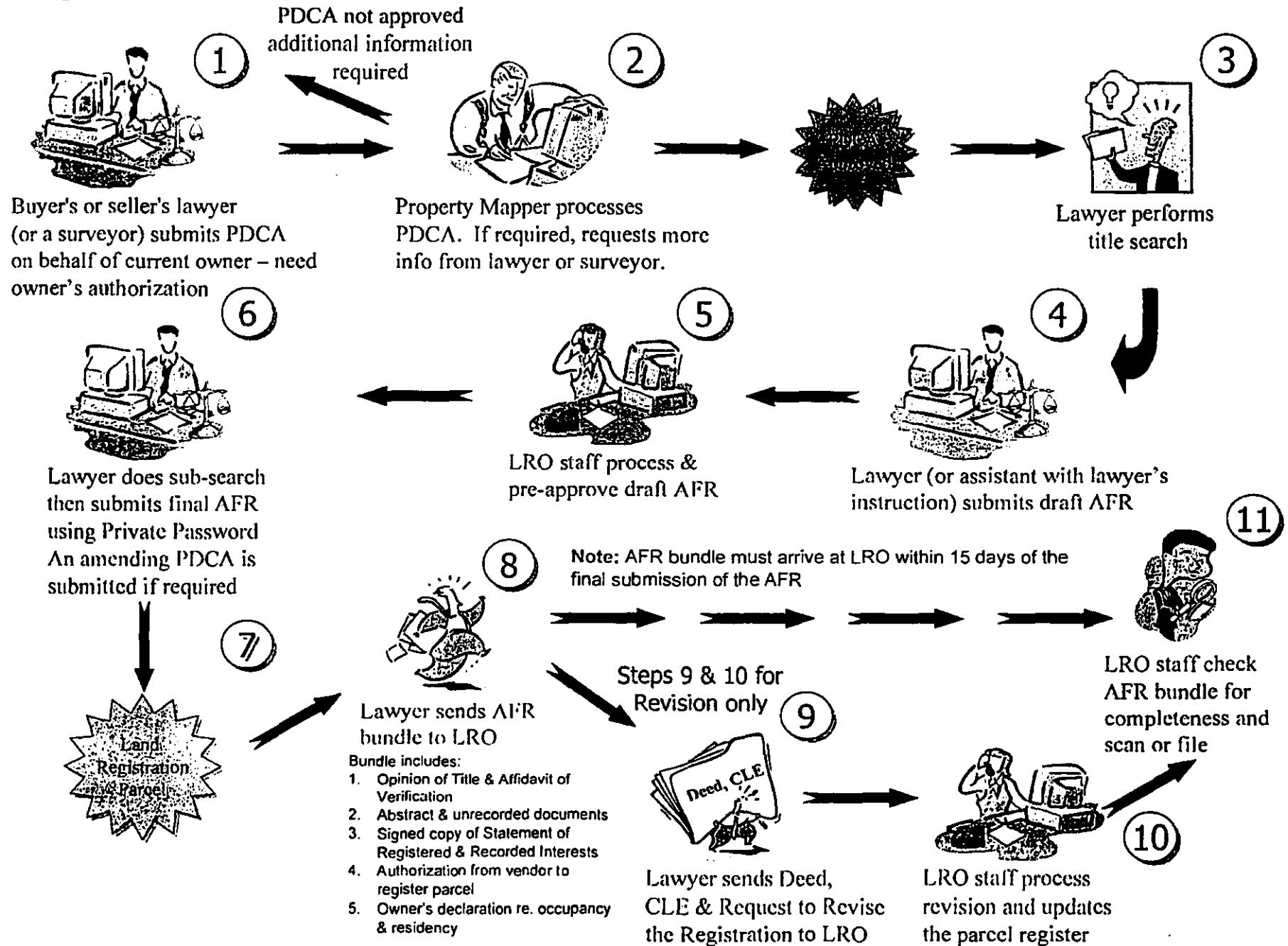
NOTE: When doing a title search, lawyers and searchers should check the references that appear in the traditional view of the PID in *Property Online*, to ensure that overriding interests that have been indexed against the parcel are identified. A statutory declaration noted in the traditional view may refer to one of these interests, and should be checked to see if it refers to an easement, which would otherwise be missed in the GGI search.

Parcel Description Certification Application (PDCA)

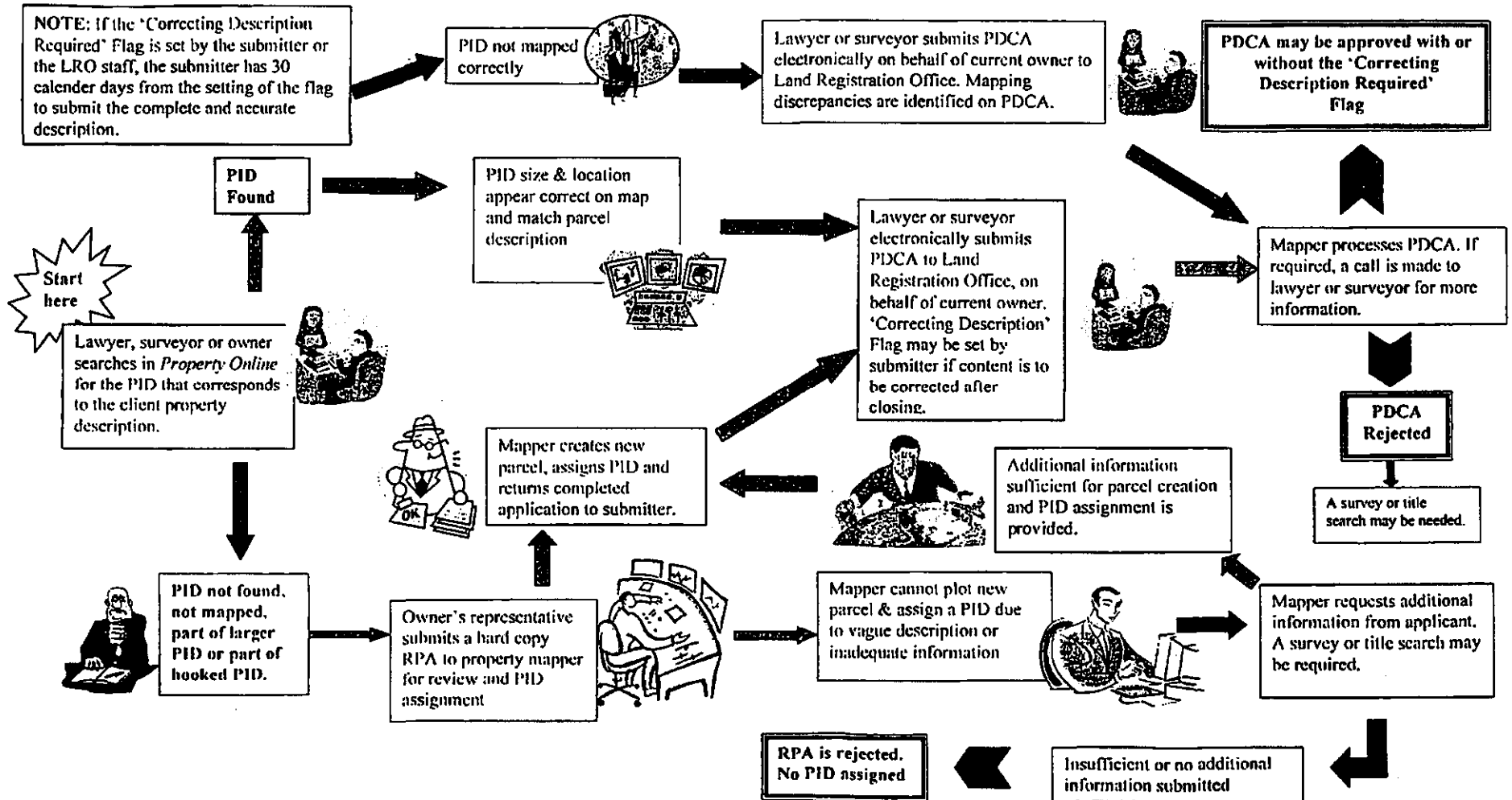
System Steps

1. From the Property Online Main Menu, under *Authorized User Options*, click on <Submit Parcel Description Certification Application>.
2. From the *Parcel Description Certification Application* screen, enter Apparent PID and click <Find>.
3. From the *Submit Parcel Description Certification Application* screen, enter User Supplied Reference, AAN (Assessment Account Number), Book, Page, Description and Comments (if required).
4. If the submitter has not completed the title search or knows of errors in the content of the description that he/she wishes to correct after the conversion (submit a correcting description within 30 days of the initial application submission), the submitter must check the box for 'Statement A'.
5. If the submitter is satisfied that they have completed all the steps and that the description is complete and accurate, 'Statement B' would be checked.
6. Copy and paste the description from a text file (ie: word or word perfect) into the description field on the PDCA.
7. Include any comments that are required in the comments field (see PDCA procedures for guidelines on comments).
8. Click on <Click Here to Submit Application>.
9. A confirmation message, "Application has been submitted successfully," appears. Application Number and Apparent PID are displayed. An email is sent to the submitter to confirm that the application is received by the LRO.
10. Click on <Home> button to return to the Property Online Main Menu.
11. If 'Statement A' has been checked, the submitter must submit a complete and accurate description within 30 days. If this is not done, a stop order may be placed against the submitter or the authority of the submitter to submit PDCAs and AFRs may be terminated.
12. To submit a 'Correcting Description' or to amend the description for any reason, after the initial description is approved, follow the steps above to submit. The system flag will indicate application type 'Amending' for an amending PDCA.

Process Flow: Parcel Description Certification Application (PDCA), Application for Registration (AFR) & Revision



Process Flow - Parcel Description Certification Application (PDCA) & Request for PID Assignment (RPA)





User Hints and Tips - PDCA

PARCEL DESCRIPTION CERTIFICATION APPLICATION (PDCA)

1. General Information

Definition of Terms and Buttons

Apparent PID: Until a property mapper has certified the parcel description for the PID, the system refers to the PID as the Apparent PID.

Application Type: the system will display "Existing Parcel" if the parcel does not yet have a certified description or "Amending Parcel" if a certified parcel description already exists.

User Supplied Reference: A file or reference number, which can be assigned by the user for tracking the PDCA in the user's office.

AAN: Assessment Account Number for the parcel.

Book/Page: the Registry of Deeds Book and Page number that contains the last conveyance document.

2. Data Validation and System Messages

Unsupported Characters in the Parcel Description

The following message is displayed if an unsupported character is found in the description:

Please be advised that the Parcel Description you want to submit has characters that are unsupported in the system. Each unsupported character is referenced by the ? symbol or the T symbol for tabs in the text appearing below.

When typing or scanning new parcel descriptions into a Word or WordPerfect document, do not include any special characters in the description that are not displayed on a standard computer keyboard. The system will not accept characters such as tabs, bullets and symbols:

- | | |
|---|---|
| Degree Symbol (°) | - don't use the degree symbol, use the word "degrees" instead |
| Curly Quotes (' ' " ") | - don't use curly or smart quotes; use straight quotes (18" 26") or the words min. and sec. instead |
| Super or subscript (st nd th) | - don't use superscript or subscript characters; use "first" or "1st" instead |
| Fraction Symbols (¼ ½) | - don't use fraction symbols; use 1/2 or 1/4 instead. |

If you have an existing parcel description document in Word or WordPerfect that contains any of these characters, search and replace the symbols with the suggested wording above. Once these characters are removed, you can paste the description into the online PDCA screen.

⊗ **Another PDCA is "In Process" for the PID**

"PID XXXXXX is part of another application." If there is already a PDCA in process for a PID and you attempt to create a new PDCA for the same PID, the system will display this error. Only one PDCA can be "in process" for the same PID.

⊗ **Very Long Parcel Descriptions (over 32,000 characters)**

If a parcel description is eight (8) or more typed pages (i.e. If the Word or WordPerfect description document contains more than 32,000 characters), it cannot be submitted through the PDCA screens over the Internet. This is a limitation of the current Internet technology.

In this instance, create and submit a PDCA as you normally would, but in the Description field enter a comment such as "Parcel description exceeds 32,000 characters. Description sent via email to the property mapper." Call the Land Registration Office in your county and ask for the email address of the property mapper, then email the Word or WordPerfect file containing the description to the property mapper – make certain the PID is clearly noted in the subject line of the email.

The property mapper will create an "Amending" PDCA using the full typed description from the Word or WordPerfect document and will notify the applicant when the PDCA has been processed (either approved or rejected).

Parcel Description Certification Application Process Steps

Relevant LRA Sections	37(4)(g), 37(7)
Relevant LRA Admin Reg Sections	5, 6, 7, 8
Relevant Forms	1, 2
For More Information on the PDCA Process	www.servicens.ca/property/registry/usergroupresources
To Do the PDCA Tutorial	www.gov.ns.ca/snsmr/property/registry/tutorial/tutorial.asp

1.0 Parcel Description Certification Roles:

Lawyer:

Lawyers must be authorized to submit Parcel Description Certification Applications (PDCA) to the land registration system. An authorized lawyer is a lawyer who:

- Has practicing insured status.
- Has the required amount of liability insurance (as set by the NSBS).
- Has taken the required educational program as mandated and presented by the NSBS,
- Has been certified as eligible by the NSBS (see also definitions in the *Land Registration Administration Regulations*), and
- Has entered into a *Property Online* Authorized Lawyer User Agreement with the Minister of Service Nova Scotia and Municipal Relations and been issued a user name and two passwords (General Use Password and Private Password).

The authorized lawyer will ensure that all requirements of the *Land Registration Act* and Regulations are met and proper procedures are followed during the submission of the PDCA, as well as other land registration processes. The authorized lawyer will ensure that the land registration system is protected and maintained and by following NSBS professional standards regarding legal descriptions, ensure that the integrity of the parcel description database. Where the parcel description requires improvement or updating; the services of a surveyor are required.

Note: The PDCA checklist is a tool created to help submitters when preparing the PDCA for approval. Completion of the checklist will ensure that the submitter has considered all items that could affect the approval.

Surveyor:

Surveyors must be authorized in order to submit PDCAs. In order to be authorized to submit PDCAs, a surveyor must:

1. Be a Nova Scotia Land Surveyor in good standing under the *Land Surveyors Act*;
2. Have taken the mandatory PCDA training provided by Service Nova Scotia & Municipal Relations (SNSMR); and
3. Have entered into a *Property Online* Parcel Certification User Agreement with the Minister of SNSMR.

The authorized surveyor will ensure that all requirements of the *Land Registration Act* and Regulations are met and proper procedures are followed during the submission of the PDCA. The authorized surveyor will ensure that the integrity of the parcel description database is maintained. Authorized surveyors will also improve the quality of parcel descriptions as required.

Title Searcher & Support Staff:

The title searcher or support staff may:

- Do research to make the match between the description and the PID,
- Retype the long form description into a text file such as Word or WordPerfect, and
- Proof read the description before the lawyer or surveyor submits the PDCA for certification.
- Complete the PDCA checklist to ensure that the legal description meets all legal and standards requirements.

Land Registration Office Staff:

- When the property mapper is able to locate the parcel with reasonable accuracy in relation to its neighbours, the property mapper certifies that the legal description matches the PID that the owner applicant has identified in the provincial mapping system.
- The mapper checks to ensure that the legal description meets all description preparation requirements set out in the NSBS professional standards and the LRA regulations.
Note: The NSBS audit includes a review of a portion of the descriptions submitted to ensure all legal requirements and standards are met.
- The property mapper may approve the PDCA subject to correction of the description by the submitter.

1.1 PDCA Steps

Note: The PDCA can be done at any time in advance of a sale if the owner wishes. The draft AFR may be started before the PDCA is submitted, but the draft AFR cannot be submitted until the PDCA is approved. If it is possible to prepare the parcel description after the full search has been completed, this will result in fewer errors and prevent a subsequent amendment to the PDCA if the full search is completed later.

It is recommended that the PDCA be submitted well in advance of the closing in order to ensure that staff has sufficient time to complete the certification process and that the lawyer has sufficient time to complete the title search and application for registration.

1. In the event of a sale, the owner may choose to list the property with a realtor to sell.
2. The realtor advises the owner to consult with a lawyer regarding the requirements for the new land registration system - Parcel Description Certification Application (PDCA) and Application for Registration (AFR), or a surveyor regarding PDCA only.
OR The parties agree that the purchaser's lawyer or surveyor should submit the PDCA – in this case the purchaser needs to obtain a completed agency form from the owner (Form 4).
3. The owner or purchaser sees a lawyer or surveyor who assists them in the steps needed to make a Parcel Description Certification Application.
4. Lawyer or surveyor review the provincial mapping information in *Property Online* with the owner or purchaser and together identify the apparent PID.

Note: If the applicant is a mortgagee, receiver or trustee by way of foreclosure, assignment in bankruptcy or otherwise they may not have the necessary personal knowledge of the parcel configuration or location to identify the apparent PID and are therefore not required to confirm the apparent match (*LR Administration Regulations* clause 5(4)(c)).

5. If the parcel is not mapped or is mapped as part of a larger parcel, the owner must complete a **Request for PID Assignment (Form 1)** and submit it to the Land Registration Office; see Request for PID Assignment process below.
Note: The existence of a PID in the provincial mapping system is not evidence that the owner has complied with provincial and municipal subdivision requirements under Part IX of the *Municipal Government Act*.
6. When the apparent PID has been identified, the lawyer or surveyor submits the PDCA on behalf of the owner (or purchaser).
Note 1: If the submitter has not performed the full title search and plans to amend the description later or knows that there is a problem with the description content, but needs to have the PDCA approved (match certified) for closing, the submitter must
 - a) place a comment to this effect in the comment field, and
 - b) indicate on the PDCA submitter's statement that the PDCA is being submitted subject to the correction of the description.
Note 2: Any gross anomalies that exist between the description and the current mapping must be acknowledged in the comments field; this will serve to avoid unnecessary delays in the certification process and the mapper will correct these as time permits.
7. The LRO staff process PDCAs in the order that they arrive in the queue. If staff certifies the match between the PID and the description, the submitter is notified of the certification, the PDCA status is set to "certified" and is removed from the queue.
8. If there is a problem with the content of the description (or if the submitter has indicated on the submitter's statement that the description requires correction/improvement), the property mapper determines the match between the parcel description and the parcel (PID) and approves the application subject to the correction of the description by the submitter. In this case the submitter has 30 days to submit an amending PDCA with all of the corrections made. The status "Correcting Description Required" will remain on the parcel register until the corrected parcel description has been submitted and approved by the property mapper.
9. If the mapper cannot locate the parcel with reasonable accuracy, he/she may contact (e-mail) the submitter to acquire additional abstract or other information that would enable the mapper to depict the property on the map within the specified standards. The application status is changed to "on hold".
10. When the submitter provides additional information, the mapper will weigh any newly acquired information against existing information including the current mapping to see if the match can now be certified. If the submitter disagrees with the mapper, the senior mapper will assist.
11. Once the PDCA is approved, the draft AFR for the parcel may be submitted.

1.2 Request for PID Assignment (RPA)

If a parcel does not exist on the provincial property map or exists as part of another parcel, the owner or agent must submit a Request for PID Assignment (RPA) in Form 1 (paper form). This step must be taken prior to submission of the PDCA. The RPA is submitted together with such information as will enable the preparation of a graphical representation of the parcel.

RPA Processing Steps:

1. The owner or agent submits the RPA form and required information.
2. If the information about the parcel that is provided by the owner (or agent) does not enable the mapper to locate the parcel with sufficient accuracy to be able to map it, the mapper will request additional information from the owner (or agent).
3. The mapper will map the parcel if the information provided permits him/her to do so and will provide the owner with the assigned PID via fax, phone or email.
4. The PDCA can then be submitted and the PDCA process begins.

1.3 Creation of Parcel Description on Subdivision

Subdivision and Consolidation Plans that result in the creation of new parcels of land (approved or otherwise) must have a certified description before the plan can be registered. This normally will take place by the mapper generating short form descriptions from the plan during the processing of the subdivision if there is enough information to permit it (see "Remainder Lot and Remnant Parcel Requirements" on the lawyers resource page, for more information on what is required). The mapper is not permitted to create long form descriptions. If a remainder parcel created by the plan does not have enough information to allow the mapper to create a short form description, the plan cannot be registered until a long form description exists in the parcel register. The owner, via an authorized surveyor or lawyer, must have the long form description for the remainder parcel(s) submitted for approval so that the plan may be processed and registered.

1.4 Content of the Parcel Description

See the PDCA Checklist for details on standards and requirements.

1.5 Length of Description Exceeds Space (32,000 characters or ~8 typed pages)

If the length of a description exceeds the space available in the electronic PDCA form:

1. The electronic PDCA form must be submitted in the usual manner without the description being inserted into the parcel description field on the electronic PDCA form but with a reference to the fact that the description is being submitted by email inserted in place of the description; and
2. After the PDCA has been submitted and system has automatically returned the PDCA number to the submitter, the parcel description must be sent to the Land Registration Office as a text file attached to an email. The email must make reference to the PDCA number that was provided by the system when the electronic PDCA form was successfully submitted.

1.6 Changes in Description

If the description of a registered parcel is altered for any reason, an amending PDCA must be submitted in the Parcel Description Certification Application for approval. A notation as to what was changed shall be made in the comments field on the application.

1.7 Consolidations

Each PDCA shall contain only one description for consolidated parcels, except those parcels of land having received final endorsement on a plan of subdivision/consolidation where the newly created parcel does not have enough survey information shown on the plan to allow a perimeter description of the consolidated lot to be written (e.g. parcel 'A' added to a 300 acre parcel that doesn't show survey information on the plan; the original description together with parcel 'A' is acceptable).

1.8 Subdivision by Deed

A subdivision by Deed for which the sale will trigger a conversion will require a Form 1 to be completed in order to request a PID assignment from the mapper so that the PDCA can be submitted and certified before the AFR is submitted. The subdivision of a land registration parcel by deed will require the submission of the description before the plan is registered.

Notice Re: PDCA Preparation

In the PDCA process, lawyers and surveyors (with the help of the owners) have responsibility for:

- ensuring the accuracy and completeness of the legal description,
- locating the parcel with reasonable accuracy (identifying the PID), and
- submitting properly completed PDCA's to the land registration system.

SNSMR has the responsibility for:

- certifying that the identified PID matches the legal description submitted.

This checklist does not replace or limit the requirements relating description preparation and PDCA submission as set out in the law, the Land Registration Administration Regulations, Land Surveyors Act Regulations, PDCA Policy and Standards, or lawyers' and surveyors' professional standards. PDCA submitters are expected to follow all regulations, rules, standards, and guidelines, regardless of whether or not they are listed on this checklist. If you have any questions, please contact the Help Line at 1-866-518-4640.

PDCA Checklist For Most Common Errors

✓	PDCA Standard	Authority
✓	Correct Description for PID: I have reviewed the last document or plan on file at the Registry of Deeds in relation to this PID to ensure that the description is the correct description for this PID.	NSBS Prof Standard 2.1; Land Surveyors Act Regs secs 68-76
✓	Compared Map and Description: With the help of my client (the current owner), I have located the parcel in Property Online with reasonable accuracy in relation to the current adjoiners. I have compared the description to the map and am satisfied that the description is for the parcel represented by this PID.	NSBS Prof Standard 2.1; LR Admin Regulation 5(5)(a), 5(5)(b)
✓	Proof-Read Description: The re-typed legal description has been thoroughly proof-read and I have checked to ensure that all of the words and numbers used are accurate and the description is complete.	NSBS Professional Standard 2.1; PDCA Policy and Standards
✓	No Run-On Paragraphs: Each new sentence describing a boundary or traverse of the parcel extent in a full text description begins a new paragraph and does not run in a continuous paragraph.	PDCA Policy and Standards
✓	Names of Adjoiners/Location Information: For any parcel described only in relation to former owners of neighbouring parcels ("bounded by") or that is difficult to locate, I have asked my client for the names of two current adjoiners OR if unavailable, information about two identifying landmarks such as a local highway number, river, quarry, etc. to help the mapper locate the parcel. This information has been provided in the comments box and I have left the names of the old adjoiners in the description. Note: This information is not always required to approve the PDCA, but to avoid possible rejection, it is prudent to provide additional location information in the comments box for every PDCA. Note: Civic numbering cannot be relied upon in Property On Line and therefore cannot be used as the sole way to locate a parcel.	LRA subsection 37(7): PDCA Policy and Standards

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PDCA Checklist For Most Common Errors

✓	PDCA Standard	Authority
	<p>Note: In all cases when a registered plan reference is required, the reference must contain enough information to make the reference unique and retrievable in a particular Land Registry Office (e.g. a Drawer No., Registration Year, etc. may be required).</p>	
	<p>Compliance with MGA: The parcel description represents a parcel that complies with the subdivision provisions (Part IX) of the MGA and there is a statement present in the description which is correct and confirms (using the exact wording from clause 5(7)(f) of the <i>Land Registration Administration Regulations</i>):</p> <p>(i) "The description for this parcel originates (originates means found within the Marketable Titles Act search) with a deed dated (<i>insert date</i>), registered in the registration district of (<i>insert registration district</i>) in book (<i>insert book number</i>) at page (<i>insert page number</i>) and the subdivision is validated by Section 291 of the <i>Municipal Government Act</i>"; or</p> <p>(ii) "The parcel originates with an approved plan of subdivision that has been filed under the <i>Registry Act</i> or registered under the <i>Land Registration Act</i> at the Land Registration Office for the registration district of (<i>insert registration district</i>) as plan or document number (<i>insert plan or document number</i>)"; or</p> <p>(iii) "The parcel is exempt from the requirement for subdivision approval under the <i>Municipal Government Act</i> because (<i>state reason for exemption</i>)"; or</p> <p>(iv) "The parcel is an original Crown Grant or island (<i>select one</i>) and is not a subdivision"; or</p> <p>(v) "The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel"; or</p> <p>(vi) "The parcel was created by a repeal of subdivision and the notice of repeal was registered on (<i>insert date</i>) as instrument number (<i>insert instrument number</i>)."</p> <p>Note: By policy, no MGA compliance statement is necessary for condominium units. This is because the unit was created under the <i>Condominium Act</i> and not under the MGA, and because since prior to the validation date of April 16, 1987, no condominium declaration has been accepted for registration without having first obtained an occupancy permit from the municipality.</p>	LR Administration Regulation 5(7)(f)
	<p>Full Text: The main description is in full text; or</p>	LR Administration Regulation 5(10), 5(7)(b) PDCA Policy and Standards
	<p>Short Form Exception: The parcel is on an approved plan of subdivision (excludes instruments of subdivision) or plan of survey recorded in the Registry, the main description is by plan reference that includes the unique identifier as shown on the plan (e.g. Lot 5A), the registry plan reference No(s), and the registration district.</p>	
	<p>Savings and Exceptings: Parcels saved and excepted from the main description are in full text; or</p>	LR Administration Regulation 5(10), 5(7)(b)
	<p>Exception: The excepted parcels are described by unique lot identifiers in a plan of subdivision or a plan of survey previously registered under the Registry Act or LRA or now being recorded.</p>	

PDCA Checklist For Most Common Errors

✓	PDCA Standard	Authority
	Benefits and Burdens (except restrictive covenants, utility easements and development agreements that run with the land): Each benefit and burden is described in full text; or	NSBS Professional Standard 2.1; LR Administration Regulation 5(7)(c), (5)(7)(d); PDCA Policy and Standards
	Exception: For any benefit and burden that is described (depicted) and identified uniquely on a plan on file in the Registry of Deeds, the registered plan reference to the plan is included.	
	All information pertinent to the use of easements: All information pertinent to the use of easements is in full text; or	NSBS Professional Standard 2.1; LR Administration Regulation 5(7), (5)(8)(b), 5(9), 5(10); PDCA Policy and Standards
	Exception: For any easement information pertinent to its use that is described in a document on file at the Registry of Deeds, the document reference (year and document no. or the book and page) to the document is included, provided that a)- the referenced document contains only one easement, and b)- the usage details exceed 5,000 characters; c)- the referenced document will appear on the AFR/parcel register as an enabling instrument for the parcel; and d)- the wording for the document reference is as follows: "Information pertinent to the use of the easement is described in Book/Page (or year and document number if no book & page)."	
	Restrictive Covenants, Utility Easements and Development Agreements: All Restrictive Covenants, Utility Easements or Development Agreements are in full text; or	NSBS Professional Standard 2.1; LR Administration Regulation 5(7), 5(8)(d)(iii), 5(9), 5(10); PDCA Policy and Standards
	Exception: For any restrictive covenant, utility easement or development agreement that is described in a document on file at the Registry of Deeds, the document reference (year and document number or the book and page) to the document is included, provided that: a)- the referenced document contains only one set of restrictive covenants, utility easement or development agreement; b)- the referenced document will appear on the AFR/parcel register as an enabling instrument for the parcel; and c)- the wording for the document reference is as follows: "Subject to a utility interest as described in Book /Page (or year and document number if no book & page)... " "Subject to restrictive covenants as described in Book/Page (or year and document number if no book & page)." "Subject to a development agreement as described in Book/Page (or year and document number if no book & page)."	

PDCA Checklist For Most Common Errors

✓	PDCA Standard	Authority
	Severed Parcels - New PIDs: Parcels of land severed by a road or railway have been established as new PIDs and separate descriptions have been submitted for each parcel created by the severance.	NSBS Professional Standard 2.1; MGA Subdivision Regs; LR Admin Reg. 5(5)
	Unrecorded Plans Submitted: All plans that are not on file at the LRO but are referenced in the description have been/are being submitted to the LRO for filing (no recording fee); or	NSBS Professional Standard 2.1; LR Admin Regulation 5(11)
	Exception: A comment explaining why the plan cannot be submitted has been made on the PDCA.	
	Plan References and Lot Identifiers: All plan references and lot identifiers (e.g. Lot 5A) included in previous descriptions have been included in the description being submitted for certification. Note: This includes statements prior to or following the description that refer to the parcel (e.g. "being and intended to be Lot 4 shown on a Subdivision plan ..."). Similar statements that refer to back title can be removed.	NSBS Professional Standard 2.1: PDCA Policy and Standards
	Condominiums: A legal description that relates to a unit as defined in the <i>Condominium Act</i> , the description must contain only: (a) the name of the County where the condominium corporation is situated, together with the condominium corporation number as assigned by the registrar of condominiums; and (b) the description for the unit as detailed in the condominium declaration; and (c) a benefit, using the following wording: "together with the common interest appurtenant thereto"; and (d) a burden, using the following wording: "subject to the Declaration and By-Laws (remove reference to By-Laws if none have been registered) of (insert county initial[s]) CC No. (insert condominium corporation number)." Note: If PDCA submitters provide more information than what is defined in the declaration, (e.g. Declaration shows "Unit 1, Level 1" and PDCA shows "Unit 1, Level 1, Apt #..., Suite #..., etc.") the "Correcting Description" flag will be set and you will be required to remove this additional information. Note: New condominium corporations must have their units defined uniquely by unit and/or level or parking unit and level in order for the unit's description to be generated by the system. If they are not, then descriptions for each of the units must be submitted to the PDCA queue before the condominium declaration can be registered.	LR Administration Regulation 5(8) PDCA Policy and Standards; LRA 3(1)(m)
	Islands: The Latitude and Longitude of the approximate center of the island as detailed in POL must be provided along with any existing description of the island.	PDCA Policy and Standards

PDCA Checklist For Most Common Errors

✓	PDCA Standard	Authority
	Boundary Line Agreements: Boundary Line Agreements are required to be acknowledged in the legal description. This can be done by reference to the registration particulars of the agreement or by a surveyor's amendment of the description incorporating the agreed boundary particulars.	PDCA Policy and Standards
	Required Comments: Comments are required for the following circumstances: <ul style="list-style-type: none"> ▶ For updating the abutters or information about landmarks for bounded by or difficult to locate descriptions. ▶ For an amending PDCA (when reacting to a Correcting Description Required flag or when making a change to a description after conversion), commenting on what is being corrected or amended. ▶ For when a PDCA is submitted prior to the full search being completed, a comment as follows: "The full title search has not been completed and an amending PDCA will be submitted if amendments to the description are required based on the title search results." ▶ When the submitted description has changed since the last conveyance, a comment acknowledging this must be included (e.g. "Redundant easements and restrictive covenants have been removed from the legal description"). ▶ When an unrecorded plan is referenced in the description and it cannot be obtained for purpose of forwarding it to the Land Registry Office, a comment should be given explaining why the plan cannot be obtained. • When anomalies exist in the graphics that need to be corrected, it should be noted in the comments field. ▶ When the PDCA reflects the consolidated description which is reflective of a recent registration of a de facto in the Registry of Deeds system, a comment which states the registry document number of the de facto is to be made. ▶ Any other information that is pertinent or helpful to the property mapper in processing the application should be noted. 	LR Administration Regulation 5(5)©, 5(11)(b), 7(2), 7(3) PDCA Policy and Standards
	Considerations: Before submitting a PDCA, consider the appropriateness of using words such as <i>grantor</i> , <i>grantee</i> and <i>schedule</i> as they can be meaningless and/or confusing to a parcel register viewer.	

PDCA Standards for Descriptions of Existing Consolidated Parcels.

When is a single description required and when are multiple descriptions permissible?

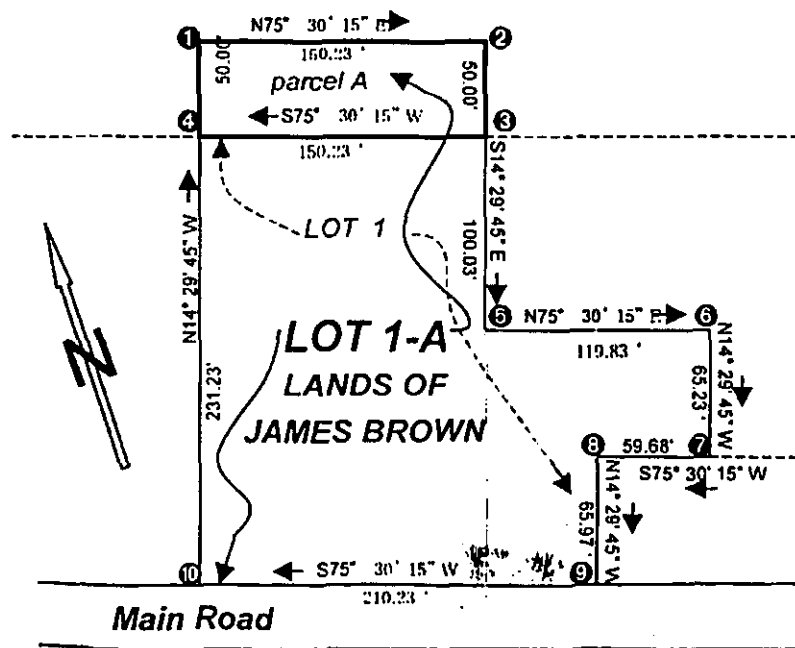
Each PDCA shall contain only one description except those parcels of land having received final endorsement on a plan of subdivision /consolidation where the newly created parcel does not show equivalent survey information on the plan to allow for a perimeter description to be written (i.e. e.g. parcel "A" added to a 300 acre parcel that doesn't show survey information on the plan). The original description together with a description for parcel "A" is acceptable).

Plan Approves parcel A as addition to Lot 1 to form Lot 1A

- Only lines 1-2, 2-3, 3-4 and 4-1 have been surveyed on this plan.
- See plan showing subdivision of Lands of ABC Company Ltd., dated March 23rd 1989, prepared by Mr. Surveyor for Lot 1. Registry of Deeds Plan No. 1234.

(A)

In this example, a single description for Lot 1-A would be required in the submission of a PDCA, as the plan shows equivalent survey information on the entire perimeter of Lot 1-A to be able to create a single description.



(B)

In this example, two descriptions are permissible in the submission of a PDCA. Lines 5-6, 6-7, 7-8 and 8-9 do not show equivalent survey information to allow a single description for Lot 1-A to be written.

