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# Module Two: The Parcel Description Certification Application (PDCA)

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## INTRODUCTION

### Learning Objective(s)

In this section, you will learn about the importance of identifying the proper parcel description from a legal perspective and how to build the description elements from the new electronic system's perspective as required by the Act and Regulations. There will be an on-line demonstration and exercises to help you understand the processes involved.

### Instructions

- Review the Draft PDCA
- Review the Legislation and Reference Materials Read the Content Materials for this section Read the Resources for this section

### Background

A PDCA is the new legal description that owners of property will use to match the property description written in a deed with the electronic picture of the parcel on the provincial map. This must be done before any parcel can be converted from the old registry system to the new system.

A PDCA is defined in the *Land Registration Administration Regulations* ("LRAR")

*"parcel description certification application" or "PDCA" means an application*

*in accordance with Section 7 to have the parcel identification number of the parcel assigned and matched to a legal description*

The above definition references s. 37(4)(g) of the *LRA*, which reads as follows:

*(4) An application shall be in the prescribed form and shall be accompanied by...*

*(g) the parcel identification number assigned to the parcel in the manner prescribed in regulations made by the minister.*

In its physical form, a PDCA is an electronic form (Form 2 – an email addendum is permitted for extremely long descriptions of over approximately eight pages – LRAR 7(3)). Only an authorized lawyer or an authorized surveyor may submit the legal description for a PID to the mappers at Service Nova Scotia Municipal Relations ("SNSMR") in order to allow the SNSMR mappers to confirm that the description is an apparent match with the PID SNSMR has in its mapping system.

The PDCA submission process is governed by s. 7 of the LRAR and the actual required content of a description is further refined by the requirement for submissions to be in compliance with SNSMR's "PDCA Checklist." The PDCA Checklist is a detailed summary sheet of everything a mapper will be looking for when reviewing a submitted PDCA.

**Note:** Your PDCA and final AFR are also your certification of compliance with the *LRA*, the *LRAR*, and the regulations under the *Legal Profession Act* (including the Professional Standards as then in effect).

In addition to the description of the parcel being converted, a PDCA will also contain information that will allow the SNSMR mappers to match the application with the SNSMR mapping system (i.e. PID, Assessment Account Number (AAN), references to most recent deed using description). A PDCA also contains a separate comments section that can be completed or left blank, depending on whether or not there are any special

considerations that should or must be communicated to the mapper. All this will be discussed in more detail below.

Noting what a PDCA **is not** is also important. Even once a PDCA is approved it is not a guarantee of the boundaries of the lot. This is stated in the *LRA*:

*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.*

Clients will often wonder why we have to do PDCAs and why such detail is required if the guarantee offered under the LRA only extends to “title” and not to boundaries. The answer is that the *LRA* is not a true Torrens system of land registration, whereby both title and boundaries are guaranteed. Our land titles system guarantees the ownership of a lot, however, before the Province is willing to guarantee ownership it must have a high level of certainty that the PID referenced actually matches the title information upon which the lawyer is certifying title. This is also in keeping with Section 2(a) of the *LRA* which notes that one of the purposes of the *LRA* is to create certainty of ownership.

### **Module Materials**

[Click here](#) for printable copy of Module Two content materials

# PDCA SUBMISSION PROCESS

## Preparation

A number of preparatory steps must be completed before submitting a PDCA. The electronic submission page will appear (note this may change slightly from time to time with system upgrades). Pay special attention to WHAT you are certifying to when you “hit the button;” remember that you may delegate the task of PDCA submission, but not the responsibility. ([See Tutorial Module 3 – Parcel Description Certification Application \(PDCA\)](#))

Other points of focus, described further below, will be driven by your obligations pursuant to the “Statement of Compliance”.



### Submit Parcel Description Certification Application

**PID:** 123456  
**Application Type:** Initial PDCA  
**User Supplied Reference:**   
**AAN:**   
**Book:**   
**Page:**   
**Parcel Location:** 123 Migration Way, NEW GLASGOW

### Apparent Owners

Name	Sub Type	Type	Interest Type	Qualifier
JANE DOE		PERSON/INDIVIDUAL	FEE SIMPLE	
RICHARD ROE		PERSON/INDIVIDUAL	FEE SIMPLE	

**Legal Description:**

**Comments:**

The portion of the description that describes location, boundary and/or the extent of the parcel is a new or amended description of the parcel.

### Municipal Government Act, Part IX Compliance

*A reference in this form to provisions of the Municipal Government Act includes a reference to the provisions of the Halifax Regional Municipality Charter, relating to the same subject matter, to the extent that it relates to property located in the Halifax Regional Municipality.*

#### Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the *Land Registration Act*

**Registration District:**  **Registration Year:**

**Plan or Document Number:**

The parcel originates with an instrument (registration details below) and the subdivision is validated by Section 291 of the *Municipal Government Act*

**Registration**  **Registration Year:**

**District:  
Book:**

**Page:**

**Document  
Number:**

Other

**Exemption:**

The parcel is exempted from subdivision approval under the *Municipal Government Act* because the parcel was created by a subdivision

**Reason for exemption:**

Other

**Not Subject To:**

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.

Other

**Comments:**

---

**General Compliance:**

*Please note: If the authorized submitter has confirmed the information below, staff of the authorized submitter may submit the PDCA on the authorized submitter's behalf. For an Amending PDCA, the submitter is confirming the information only in relation to the amendment.*

- The authorized submitter is submitting this PDCA for approval and confirms that:
- This application is being submitted in accordance with the *Land Registration Administration Regulations*.
  - The authorized submitter has reviewed the legal description included in this application and checked the provincial property mapping graphics. If the graphics do not match the legal description, any apparent discrepancies have been noted in the comments field of this application.
  - The legal description is accurate and complete and complies with the *Land Registration Administration Regulations*, applicable professional standards or regulations and the PDCA standards as set out in the PDCA checklist.

[Click Here to Submit Application](#)

[Clear](#)



Other points of focus, described further below, will be driven by your obligations pursuant to the “Statement of Compliance”.

## Authority to Submit

First, you must determine whether you have authority to submit the PDCA. Your authority to do so will usually exist once your client (the owner) has executed the form of consent you require to enable you to submit the PDCA and Application for Registration (AFR) for the parcel. Each authorized lawyer can create their own unique consent/authorization form. The authority to complete a PDCA is also inherent when there is a solicitor client relationship. You should, however, secure a consent/authorization Form if you are making the application on behalf of an owner who is not your client (i.e. you are acting for a purchaser who has agreed to complete the conversion). You may also have authority to submit a PDCA in certain circumstances as outlined in s. 7(6) of the LRAR (*amended to N.S. Reg. 83/2006*) :

*(6) Submission of a PDCA may be authorized by a person other than the owner of a parcel when the authorizing person*

*(a) is the mortgagee of a parcel and the owner of the parcel has refused to register title to the parcel;*

*(b) is a mortgagee who is the plaintiff in a foreclosure action respecting the parcel, or a receiver or trustee by way of assignment in bankruptcy or otherwise and has authority to act by virtue of a court order, debenture or other document, and the document evidencing the authority has been recorded under the Act or registered under the Registry Act.*

You may also be authorized pursuant to s. 14(4) and 15(2) of the LRAR which require you to submit an amending PDCA if you add a burden to a PID on behalf of a non-owner.

## Confirmation of PID and Graphic

LRAR s. 7(7) requires that “before an AFR in final form is submitted, the PDCA submitter must assist the parcel owner or authorizing person under subsection (6) in identifying the parcel’s PID and take reasonable steps to identify the parcel, including:”

1. Reviewing the legal description;
2. Reviewing Provincial mapping of the parcel; and
3. Placing a comment in the comments field if errors in the provincial mapping of the parcel are identified;

You should also have the parcel owner confirm the apparent match of the provincial mapping identified by the PID with the legal description. At this time, one should also ask the owner to identify the current abutting land owners. The identification of “abutters” can be a valuable asset for the SNSMR mappers if the description is vague.

The confirmation required in LRAR s. 7(7) is not applicable where the parcel is a condominium unit.

In the event LRAR 10(5) authorizes a non-owner (e.g. mortgagee) to convert the parcel, Form 5 may say that the affiant has “no knowledge” with respect to occupation, etc. In the editor’s view, this does not relieve the solicitor from taking such steps as are otherwise available (e.g. location certificates on file, etc.) to determine any encroachments, abutters, etc.

Ask the client the questions noted in Module 1 respecting mode of access, encroachments, access to foreshores or wells, etc.

In most instances a meeting with the client will suffice to satisfy the requirements under LRAR s. 7(7), however many solicitors have developed some form of “Confirmation of Graphic and Description” in order to properly document the results of the client meeting. A sample form is included in the [Conversion Package](#) section.

In addition to documenting the authority and confirmation of graphics to provide objective evidence of authority and instructions (See [Practice Standard 1.5](#)), it is also desirable to include an authority to amend the parcel description and parcel register in the event there later turns out to have been an error and you are still in a position to effect the necessary corrections (Fixing the Parcel Register (Rectification) is discussed in Module 4).

Please note that you may not have completely fulfilled your obligation under LRAR s. 7(7) if you rely solely on such documents and forego an actual verbal conversation. The opportunity to present questions and push for as much detail as possible on answers will often disclose problems at the outset. It is the editor's view that although the LRAR does not require written confirmation (only confirmation) from the owner or other authorized person, and does not require written authority to convert when there is a solicitor-client relationship, non-written compliance is poor practice on both counts. Most solicitors appear to have written documentation from the client prior to final conversion and this is only sensible not only from an evidentiary point of view, but adds no meaningful work as one must meet with the clients for the purpose of execution of [Form 5](#), discussed infra (again, the LRAR permits the lawyer to execute Form 5 on the basis of information and belief, but the editor considers this poor practice).

Again, it is worth noting (although beyond the scope of this review) that the *Legal Profession Act* Regulations, as well as the Professional Standards, now contain provisions for identifying the client. Why not fulfill both obligations at the same time and get them out of the way?

## Complete and Review Title Search

The title search should be ordered as soon as possible in the PDCA process. In an ideal world, one would like to meet with the client to ensure that the property has been correctly identified before requesting a title search (and, as discussed later, it may be impossible to determine how the parcel register complies with Part IX of the Municipal Government Act ("MGA") until the title search has been completed). However, the time lines associated with property transactions often require these various preparatory steps to be completed simultaneously.

The title abstract review process is discussed elsewhere in your materials. For the purposes of the PDCA one must review the abstract in order to identify the current description for the property. The current description will form the foundation on which your PDCA is built.

The current description is referred to as a foundation because it does not always include all the interests or statements required to be included by the LRA or the LRAR. The abstract must therefore be reviewed in order to build on the foundation of the current description by identifying and adding any interests not identified so that they can be added to the description during the drafting process.

Registerable interests which will be included in your AFR (i.e. easement benefits and/or burdens) must be mirrored in the PDCA. Only a review of the whole abstract will identify these interests. A comprehensive review of the abstract may also identify lots that have been carved and conveyed out of the PID you are describing. The failure to save and except these lots from the current description is not uncommon. (See item 26 in the abstract of title and the approved PDCA in the resources)

When reviewing the abstract, keep in mind the Professional Standards already identified in the Abstracting and Title Searching section of your materials. Additionally, pay particular attention to Standards [2.1](#) to [2.4](#) and [2.6](#), which deal explicitly with issues directly affecting the legal description. **(It is recommended you download the Standards not only as a general resource but as a reminder that you are certifying to compliance with all real estate transactions.)**

You will often find that the current description does not contain all the information required to be included in the PDCA pursuant to LRAR s. 7(10) and as summarized in the PDCA Checklist.

Once the abstract has been reviewed, a solicitor will usually compile an abstract summary sheet. A space should be added to this sheet to identify interests that must be added to the description.

Plans are another essential source of information contained in the title abstract. Before submitting a PDCA you will need to compare the current description against the plan line by line. If there is a discrepancy, you may need to work with one of the SNSMR mappers or a surveyor to resolve the issue. The presence of a plan will also allow you to determine your MGA Compliance Statement. The MGA Compliance statement is discussed in greater detail below.

## **PID Assignments and De Facto Consolidations**

Upon meeting with your client and reviewing the description, you may note that the SNS mapping does not show your PID (i.e. it is not separated from a larger lot), or your client has two described lots in his or her deed, but the mapping only shows one PID. If this is the case, you must stop the PDCA process and make an application to have a PID created. This is done by submitting a Form 1 Request for PID Assignment. PID assignments are discussed in further detail below.

Instead of determining that your client wants to have separate PIDs for each separately described lot, he or she may decide that the lots should remain one. This “consolidation” may be accomplishable by submitting a De Facto consolidation pursuant to the *Municipal Government Act* (section 268A) if there has been common ownership of all lots being consolidated since before April 16, 1987. Again, this is discussed in greater [detail below](#).

## **PDCA Checklist**

Your final preparatory step should always be to review the [PDCA Checklist](#) to ensure you have all the information you will need to draft the description for your PDCA.



## CONTENT AND DRAFTING THE DESCRIPTION

In this instance the term drafting does not mean creating a description from scratch. Drafting simply means retyping the existing description so that it can be submitted to SNSMR in electronic format (Form 2), and it also means adding content that is required by the LRAR or the PDCA Checklist that is not in the description contained in the deed.

A lawyer should always keep the end-user in mind when drafting a PDCA. The description will be the only portion of the parcel register that shows online in full text. Does your PDCA fully describe the physical nature of the land and all the interests that run with the land? Does the reader of the description know all he or she needs to know about the scope of the rights and obligations that run with the land? Keep these questions in mind when drafting your PDCA.

Section 7(10) of the LRAR lists the required content for a PDCA. The required content is as follows:

1. A description of the location, boundaries and extent of the parcel;
2. A description of all parcels excepted out of the legal description;
3. A description of all benefits;
4. A description of all burdens;
5. All information pertinent to the use of easements; and
6. A MGA Compliance Statement.

The metes and bounds description must be in full text or by reference to a unique identifier on a survey or subdivision that has been registered. References to subdivision by instrument are not permitted.

All benefits and burdens, and parcels excepted and reserved, must be similarly described either in full text or by reference to a unique identifier on a filed plan or survey or subdivision, or by reference to a recorded instrument that contains a full description of the burden. LRAR 7(10)(b).

All information pertinent to the use of easements must be described in full text, or by reference to a recorded instrument that contains a full text.

Using the example of PID 40051039 provided in the sample abstract, you will note that the original description fully describes the metes and bounds of the lot. The original description also describes an easement benefit. However, the original description lacks a reference to the easement burden noted in the abstract and an MGA Compliance Statement.

Adding these elements to the existing description is part of “drafting” the PDCA. Lawyers should be very cautious when changing any portion of the actual metes and bounds of the description. Unless something is, on its face, a clear typographical error, a lawyer should usually defer to a surveyor to correct errors in descriptions. The Society and the Association of Nova Scotia Land Surveyors have developed a protocol in situations where a description requires revision. The paper is commended to your reading at

[https://www.lians.ca/sites/default/files/documents/DiscussionPaper-HartlenDeWolfeGordon\\_\(00009136\).PDF](https://www.lians.ca/sites/default/files/documents/DiscussionPaper-HartlenDeWolfeGordon_(00009136).PDF)

When drafting a PDCA for conversion or amending a PDCA once your parcel has been converted, it is important to recognize that the extent (size, shape etc.) of the parcel, although not guaranteed by the system should be as accurate as possible. The PID is a “label” for the parcel as it is described at a particular moment in time. The extent of a parcel can change when two parcels are consolidated into one. The process of consolidation may cause the Land Registration Office to retire one of the two PIDs and use the other as a label to describe the newly consolidated parcel. For this reason, try not to use PID’s to describe a parcel in any document, especially easements. Use the lot number or the full description in conveyancing or easement documents. You will find that it is too difficult to determine what the parcel’s extent was at a future time when only the PID is used to describe the parcel. One option is to refer to a PID “as at” a given date, which will alert the reader to enquire as to any changes that may have been made to that parcel since that time – an historical but not impossible task. Also be mindful of the principle that on consolidation of two parcels, the benefit of an easement on one parcel does not

extend into the second parcel when it is consolidated with the benefitted parcel.

I have borrowed the wording from [Garth Gordon's paper on Access](#) which clearly explains the principle:

The law clearly prohibits the extension of the benefits of rights of way. There is a thorough discussion of this issue in *Gordon v. Regan*; the following are representative passages:

“28 The authorities have consistently held that it is of the very essence of a right-of-way that it be appurtenant to some particular parcel of land. A right-of-way granted as an easement incidental to a specified property may not be used by the grantee for the same purpose in respect of another property. That is, it has been held that the owner of the dominant tenement cannot increase the burden on the servient tenement by using the right-of-way to go to property to which it is appurtenant and then passing over that property to reach adjoining property.”

The paper referred to above by Garth Gordon is an excellent resource on this issue and is highly recommended reading.

There will be more on this issue of the PID to describe a parcel later when you learn about revising a parcel that has been converted to the Land Registration system.

The easement burden noted in the sample abstract is a good example of an easement that requires a description of its physical location, but also has a significant amount of language surrounding the scope of the easement. This burden is a well easement that not only describes the physical location of the right of way, but also limits the terms of use of the easement. For instance, there are termination provisions that must be fully described to ensure someone reading the description contained in the parcel register is aware of this potentially significant limitation.

LRAR s. 7(10) is a valuable tool when drafting PDCA's. Often your abstract of title will disclose restrictive covenants that can be a number of pages long making reproduction within the body of the description difficult. The regulation is especially valuable when reproducing burdens in favour of a public utility. Easements for Nova Scotia Power, for instance, can be lengthy, but will generally contain the same usage information in each instrument. Referencing the instrument by registration particulars will save time and will generally keep your PDCA in a more reader-friendly state.

It is often a judgment (and timing) call when to use short forms when permitted, and when to use full text. Just because something is permitted does not make it best practice! One senior practitioner has opined that short form metes and bounds should be used when it “tells you more than the metes and bounds does.” For example, an ancient description of 100 acres with bits and pieces carved out over the years might be far inferior to an existing retracement plan. Conversely, a plan from decades ago may be permitted, but a metes and bounds will probably convey more information.

Similarly, scanning of documents so they can be read online has made incorporation by reference in the PDCA easier (ie. it is permissible to refer to easements by book and page rather than in full text; scanning has made access to that full text in a separate instrument easier). A PDCA submitter should, however, consider using full text in a PDCA when (a) you come across them regularly and can be cut and posted from a saved document (for example, coal and subsidence restrictions, gypsum profits a prendre, and so on in some regions and (b) the information is not “cookie cutter” and peculiar to a specific lot (well agreements, shared driveways, and shorefront access often fall in this category).

The last item on the list of required content is the [Municipal Government Act Compliance Statement](#). This is an essential element found in the description, but it is one which may be more relevant to title. A deed conveyed with a description that is not MGA compliant is invalid. Essentially, the MGA requires that all lots be created by an approved plan of subdivision unless the lot is created under one of the exemptions. Consequently, a conveyance of an MGA non-compliant lot is void and the government guarantee of title can be drastically and obviously jeopardized.

The key point to note is that after April 16, 1987 subdivision or consolidation by deed is not permitted. If you have a deed dated after April 16, 1987 that purports to subdivide or consolidate, there must be an associated approved plan of subdivision, unless the lot can be classified as one of the enumerated exemptions from subdivision. Descriptions dated before April 15, 1987 are saved, or grandfathered, by section 291 of the MGA.

MGA compliance is now selected from a combination of radio buttons (approved plan, validated by s. 291, exempt – with a dropdown selection of how it is exempt – or other)

Review the explanation of these changes in the [Registrar General's Communique – Issue 9, November 2010](#)

This is the latest (2010) in several generations of treatment of MGA compliance statements in the PDCA process. Early parcels required compliance but no statements were required. Starting in 2004, one of a series of prescribed statements were required. Later, until 2010, each lawyer could generate his or her own MGA Statement on a case by case basis. As a result, some approved descriptions simply said that it “complies with Part IX of the *Municipal Government Act*.”

When a description is “autogenerated” by SNSMR as a result of a migrated parcel being subdivided, it does not contain an MGA compliance statement. It is the writer’s view, however, that these should be added when practicable (for example, on revision or when filing a Form 45, a topic covered later in these materials). MGA statements also are not contained in condominium units.

As a result, although there is now the process described above of radio buttons and drop-down menus, reviewing existing parcels can result in a series of different and sometimes confusing treatments of MGA compliance.

Some examples of MGA compliance may be gathered from the former “approved list” in a prior version of the LRAR:

1. “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*.”
2. “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).”
3. “The parcel is exempt from the requirement for subdivision approval under the *Municipal Government Act* because (state reason for exemption).”
4. “The parcel is an original Crown Grant or island (select one) and is not a subdivision.”
5. “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.”
6. “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).”

As noted, there can also properly be no MGA statement at all (because of the age of the migration or because of it being an infant parcel of a larger migrated parcel), or a simple bald statement that “it complies.” None of these, if done at the proper time, are necessarily “wrong” but must be reviewed.

The vast majority of PDCAs will comply with the MGA either by approved plan or by being a lot in existence prior to April 16, 1987. However, knowing the exemptions listed in section 268(2) of the MGA is essential for the instances when you will need to use the “drop down menu” of exemptions. Section 268(2) reads as follows:

268(2) Subdivision approval is not required for a subdivision

- a. where all lots to be created, including the remainder lot, exceed ten hectares in area;
- b. resulting from an expropriation;
- c. resulting from an acquisition or disposition of land by Her Majesty the Queen in right of the Province or in right of Canada or by an agency of Her Majesty;
- d. of a cemetery into burial lots;
- e. resulting from an acquisition of land by a municipality for municipal purposes;
- f. (ea) resulting from an acquisition of land by a village for village purposes;

- g. resulting from the disposal, by a municipality, of a street or part of a street or a former street or part of a former street, including the consolidation of a street or part of a street or a former street or part of a former street with adjacent land;
- h. (fa) resulting from the disposal of a trail or part of a trail, including the consolidation of a trail or part of a trail with adjacent land;
- i. of an abandoned railway right of way;
- j. that is a consolidation of a part of an abandoned railway right of way with adjacent land;
- k. resulting from a lease of land for twenty years or less, including any renewal provisions of the lease;
  - (ia) resulting from the acceptance for registration by the Registrar of Condominiums of a phase of a phased-development condominium that meets the requirements, if any, prescribed by the regulations made pursuant to the *Condominium Act*;
  - (ib) resulting from the quieting of a title;
- l. resulting from a devise of land by will executed on or before January 1, 2000.

## Comments Section

This is the final section of the actual electronic PDCA. This section is ultimately helpful to both the SNSMR mappers and to solicitors because it allows solicitors to provide helpful comments or explanations as to any short comings in the application. This prevents unnecessary rejections which can greatly delay the process.

Solicitors will often comment on any typographical errors that have been corrected. They will also provide information with regard to abutters in instances where the descriptions are vague, or indicate that no better description is available for an easement, for example, included in the description but that does not quite meet the standard of description required. Other examples are references to missing surveys (the procedure is to maintain the reference in the description but to add a comment that it is not filed or in one's control), elimination of redundant easements, identity of lot number of deed, a comment that the mapping graphics are to be updated, etc.

In instances where you are amending an already approved PDCA, you need to provide the mappers with a comment describing the change. As well, if you are changing the metes and bounds description (for example, to incorporate information about roads, survey data, etc. not previously on the Registry record), you must provide a comment explaining the change.

Comments provided in this section are not included in the final approved description that will be shown in the parcel register. The comments section is merely an avenue of communication between the lawyer and the SNSMR mapper. In the case of comments provided respecting changed metes and bounds, however, these are viewable to third parties (although they do not form part of the description itself).

Some other applications have a mandatory comment:

1. Names of abutters where descriptions are vague;
2. Reasons for an amending PDCA;
3. What is being corrected in a correcting description PDCA;
4. Comments acknowledging that the description has changed since the last conveyancing document;
5. Identification of errors contained in a previous description;
6. Identification of errors in POL mapping;
7. If PDCA is submitted based on a consolidated description created pursuant to a de facto consolidation the submitter must provide the document number of the statutory declaration forming the basis of the de facto consolidation;
8. PDCAs submitted prior to completion of full title search;
9. Reason why unrecorded plan referenced in description cannot now be registered;

10. Your reasons why you feel a watercourse does not sever a described lot; and

11. When an island is created as a result of flowage.

### **PDCA Statement of Compliance**

At the bottom of the PDCA submission page you will note the statements below. You will be required to check a box if you feel you are in compliance. If the authorized submitter has confirmed the information below, staff of the authorized submitter may submit the PDCA on the authorized submitter's behalf.

The authorized submitter is submitting this PDCA for approval and confirms that:

1. The owner applicant has authorized him/her to submit this application.
2. The authorized submitter has reviewed the legal description included in this application and checked the provincial property mapping graphics. If the graphics do not match the legal description, any apparent discrepancies have been noted in the comments field of this application.
3. 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.
4. Before an application for registration is submitted in final form the authorized submitter will confirm with the owner that the graphics identified by the PID appear to match the legal description for the PID.

You will note that this compliance statement refers to much of the information discussed above.

### **Tips for Drafting Descriptions**

Occasionally you will be converting a parcel that has a public road running through it. This is more common in rural areas. The description will not refer to the road being excepted out. In any event, you really have two parcels because the road creates a subdivision of that parcel. Your first reaction might be that you need to have the property surveyed and a new legal description created. This may be the best choice in some cases. However, your client may not wish to incur the cost of a survey. In this case, it is permissible to create the description of the two parcels by describing the whole parcel and then "saving and excepting" the road and the lands on the other side (east, west, north, south etc.) of the road. The second parcel is described as the whole parcel saving and excepting the road and the lands on the opposite side of the road.

## SPECIAL APPLICATIONS

### Condominiums

As you will soon see, the conversion of a condominium is somewhat different from that of regular parcel of land. The differences are not limited to the AFR portion only.

The content of the PDCA for a condo unit is strictly defined by the LRAR:

7(11) When the legal description submitted for PDCA approval relates to a unit as defined in the *Condominium Act*, the description must be accurate and complete but must contain only

- a. the name of the County where the condominium corporation is situate, together with the condominium corporation number as assigned by the Registrar of Condominiums;
- b. the description for the unit as detailed in the condominium description on file with the Registrar of Condominiums;
- 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 condominium corporation name and number)”.

The inclusion of any other information, including benefits and burdens associated with the parent PID on which the condominium was constructed, will result in a rejection of the PDCA (see Module 3, in particular, for treatment of benefits and burdens on condominiums, and the exemption from the “matching” principle in the condominium context). These additional benefits and burden will go in the parcel register, but not the PDCA. This is the only type of conversion where the benefits and burdens in your AFR are not required to match those described in your PDCA. If you do have information that you feel may be valuable to the SNSMR Mapper, you should provide the information in the comments section.

### Islands

A PDCA for an island lot will simply identify the island by name (if possible) and location and must provide a latitudinal and longitudinal reference point for the centre of the island. One would be wise to contact a surveyor to determine this reference point.

An island, for obvious reasons, is usually not a subdivided lot, therefore the MGA compliance statement will often state that it is a Crown grant or that the parcel is exempt from subdivision simply because it is an island. In other words, the island is carved out by natural boundaries. An island with more than one lot, of course, is different and the lot under consideration must be described in the normal way.

When dealing with islands and other parcels with water frontage a lawyer must consider [Professional Standard 2.6](#). See, in particular, s. 108 of the *Environment Act*; consider whether the waterfront is federal or provincial.

### Cross-Boundary PDCAs

Occasionally, you will discover that the PID you are endeavoring to submit for a PDCA straddles a county line. The legislation does not address this issue. You are advised to contact the mapper directly at the outset of the conversion process. The general practice by mappers is to use the County where the greatest amount of that parcel lays.

In some instances, you may wish to consider items extraneous to the PDCA process, such as tax rates in each county. Registration in a county with a lesser property tax rate may be more advantageous to your client. You may also wish to consider the consequences of submitting a PID assignment, which would create separate PIDs in each county. Once severed, these PIDs could possibly require a formal subdivision application to be consolidated, if desired, at a later date.

## **Correcting Description PDCA's**

Pursuant to LRAR.s. 7(14), a mapper may approve a PDCA even though a correction may be required to the form of description included in the PDCA application. The application will be flagged as approved "subject to correcting description". The correction may be something as straight forward as a typographical mistake, but in any event this form of approval permits a draft AFR to be submitted for pre-approval to allow the conversion process to proceed. The correction must be made by submitting a correcting PDCA however, and approved prior to the final submission of the AFR.

The process for submitting a correcting PDCA is no different from a PDCA submitted in the first instance. One however, must always provide a comment identifying what has been corrected. Note however that if you have submitted an MGA compliance statement under the post-2010 procedure, you would then click the "no change to MGA compliance statement" box, unless of course the correction is itself to the MGA statement. Remember, in that case, to delete the applicable text as the new statement is auto-inserted on submission.

## PID ASSIGNMENTS AND DE FACTO CONSOLIDATIONS

### Request for PID Assignment – Form 1

#### *The Law:*

LRAR s. 7(9) (17) and (18) provide for assignment of new PIDs either when one is not assigned to a parcel (for example, when the lands are actually two parcels by virtue of being divided by a roadway), or when a watercourse has the effect of creating a ‘natural’ subdivision.

(17) Except as provided in subsection (18), if after considering the nature and use of both a watercourse and the land through which it flows, a PDCA submitter or a registrar determines that the watercourse creates a natural boundary, (a) the watercourse is deemed to subdivide the parcel or parcels through which it flows; and (b) the parcel owner must make a request for PID assignment in Form 1 and provide such information as will enable the preparation of an electronic geographical representation of the parcel before making a PDCA.

(18) A parcel for which subdivision approval has been granted under the *Municipal Government Act*, or the former Planning Act, may not be subdivided under subsection (17).

**Note:** Refer to LRAR s. 7(10) to determine the requirements for the legal description you must attach to the Form 1.

#### *When Do You Use a Form 1?*

If a parcel is not graphically represented on the provincial mapping system you must request a PID for the parcel BEFORE you can submit the PDCA. You must use a Form 1 (Request for PID Assignment) to obtain the required PID. A parcel may not be graphically represented on the provincial mapping for several reasons, including:

- the parcel is a portion of an existing mapped PID;
- the parcel is being subdivided by deed out of an existing PID;
- the parcel is intersected by a public road, railway, abandoned railway; or
- the PDCA submitter determines that a watercourse that flows through the parcel is a natural boundary pursuant to subsection 7(17)(a) and (b) of the LRAR

#### *Are Additional Documents Required?*

Yes. You must attach information to enable the property mapper to locate and graphically represent the parcel. This includes:

- a parcel description for the parcel you are requesting the PID; and
- a sketch, survey or other such information, to allow the mapper to create a graphical representation of the parcel.

**Suggestion:** it may save time if you also identify current abutters.



## De Facto Consolidations – MGA Section 268A

### *The Law:*

268A (1) Two or more lots that are and have been in common ownership and used together since April 15, 1987, or earlier are deemed to be consolidated if the owner or the owner's agent registers a statutory declaration in the appropriate registry of deeds or records a statutory declaration in the land registration office stating that the lots were in common ownership and used together on or before April 15, 1987, and have continued to be so owned and used, and including the facts that support the statement, the present descriptions of the lots including any property identifiers assigned by Service Nova Scotia and Municipal Relations and the description of the consolidated single lot.

(2) Registration or recording of the statutory declaration referred to in subsection (1) is deemed to consolidate the lots as of the date of registration or recording.

(3) Subdivision approval of the consolidation is not required.

### *When Can You Use a De Facto Consolidation?*

Before submitting a PDCA for a parcel, you need to determine that the parcel complies with the subdivision provisions in Part IX of the MGA. In a situation where there are two or more lots that have been in common ownership and used together since April 15, 1987, or earlier, and have continued to be so owned and used, they are deemed to be consolidated if the owner or the owner's agent registers a statutory declaration including the required information outlined in section 268A of the MGA. The statutory declaration must include:

- A statement that the lots have been in common ownership and used together on or before April 15, 1987, or earlier, and have continued to be so owned and used;
- Facts that support the statement that the lots have been in common ownership and used together since April 15, 1987, or earlier, and have continued to be so owned and used (many declarations, particularly prior to 2010, fail this test, requiring careful review and occasionally correction);
- The present descriptions of the lots, including any PIDs assigned by Service Nova Scotia and Municipal Relations; and
- The description of the consolidated single lot.

The lots are deemed to be consolidated once a statutory declaration that satisfies the criteria set out in section 268A is recorded.

### *Important Notes from the Registrar General's Update on Policy and Procedures for Lawyers and Surveyors*

- A de facto consolidation declaration is a non-enabling instrument and cannot be used to enable an interest holder's ownership and such, cannot be used as an enabling instrument on an AFR or Form 24.
- If a statutory declaration is registered to address more than one issue, i.e., consolidation and ownership, the document must be registered separately as a 268A declaration and again as a possessory declaration.
- You should cite Section 268A of the MGA under "in the Matter of..." section of the declaration so that the LRO staff can identify the declaration at the time of recording as a de facto consolidation.
- In recognition of situations where land owners may not be able to determine with certainty, which old, underlying descriptions are associated with a particular new description and the existing parcels are contiguously owned AND such ownership is intersected by a public road, railway or abandoned railway (see s. 7(17) (a) and (b), and 7(18) LRAR re: watercourses), it is acceptable under section 268A for an owner to register a single statutory declaration that consolidates multiple parcels into more than one consolidated parcel without attributing the old descriptions to a specific new description.

### ***MGA Compliance Statement:***

Select the 268A “exemption” from the drop down menu.

## **Deciding Between Using a Form 1 or De Facto Consolidation**

In circumstances where the requirements set forth in section 268A of the MGA can be established allowing for a de facto consolidation, you should determine whether it is more beneficial to a landowner to use the de facto consolidation option or to making a request for the assignment of additional PIDs for any additional parcels. It is important to explain to your client that you cannot “undo” a de facto consolidation. A formal subdivision application would likely be required to sever the consolidated parcel.

Simply because your client’s parcels have historically consisted of more than one lot, but have been used as one lot since April 15, 1987, or earlier, it may not always be in the client’s best interest to elect to use the de facto consolidation route. That said, section 268A of the MGA can be a valuable means to address difficult issues when you are trying to convert parcels of land. Section 268A provides an option to consolidate parcels of land without undergoing formal subdivision/consolidation procedures. In circumstances where you determine it is beneficial to consolidate parcels of land, but they do not satisfy section 268A, you may want to research options available under section 268(2) of the MGA.

## **PROCESS AND CONSIDERATIONS**

See “De Factos and de Fiction” in the [September 2010 issue of LIANSwerts](#)

Although not an exhaustive list, the following are issues that you should consider when trying to determine if it is appropriate to use the de facto consolidation option available under the MGA:

- **Tax Assessment Issues** – Lawyers are typically not the appropriate person to advise a client whether their tax assessment accounts will increase or decrease, but you may want to advise your client that there may be possible property tax consequences to consolidating parcels of land. One advantage to consolidation is having only one assessment account.
  - **Some questions to consider:** Will Assessment Accounts be affected? Is it beneficial for tax assessment purposes to have separate or consolidated lots? Does your consolidated parcel cross county lines with the bulk of the lands lying in a county with a lesser property tax rate?
- **Access** – How will the access type be affected? Do you need to obtain an easement/ Right of Way? Do you need to update the parcel register?
- **Easements/ Right of Ways** – You need to determine if consolidation will extend the benefit of the right of way beyond the original dominant tenement. For a detailed comment on this topic, I refer to you section 11(b) of the thorough [paper on access prepared by Garth Gordon QC](#) cited earlier in these materials.
- **Severance** – Are the parcels being consolidated bisected by a public road, railway, abandoned railway or body of water? If so, you are required to request PID assignments for parcels that are severed/intersected by public roads, railways, abandoned railways and where applicable, watercourses. With respect to lands that are intersected by public roads, railways or abandoned railways, (and watercourses when so determined to have such an effect), it is acceptable to register only one statutory declaration pursuant to section 268A of the MGA to consolidate multiple parcels into more than one consolidated parcel.
- **Lot Development** – Will consolidation trigger any regulations in the relevant Municipality that can limit development/usage on the consolidated lots? For example, the Municipality of the County of Kings allows a non-farm residential dwelling in the A1 zone on a lot in existence prior to August 1, 1994. A de facto consolidation creates a new lot that may affect the property owner’s ability to develop the lot. What will the impact be for tax assessments if the owner wants to sell the parcel in the future?
- **Cross- County Boundaries** – The legislation does not address situations where a newly consolidated parcel crosses a County line. The general practice by mappers is to use the County where the greatest amount of the consolidated parcel will lay, unless there is a house located on the parcel, in which case they will elect to register the parcel in the County where the house is located. You should contact the appropriate mapper at the early stages of the conversion process.

- **Value** – If a lot COULD stand on its own for sale to a third party, but would not now qualify for subdivision (for example, a small rural lot on which a person would put a custom-designed septic system), it might have significantly more value than an add-on to an existing lot.

## **AMENDING OF THE APPROVED PDCA**

Circumstances may arise that require the approved PDCA or a registered parcel to be amended or altered. The reasons for amending an approved PDCA fall into the following general categories:

### **Corrections before final conversion**

- The original PDCA was submitted for approval prior to the title search being completed and additional items may be found when reviewing the full search which need to be added before submitting the AFR for final approval
- The correcting of spelling mistakes, book and page references, typographical errors in the metes and bounds, etc identified prior to final submission of the AFR.
- Correcting flags as placed by the LRO

### **Amendments required upon Rectification**

A “rectification” resulting in the addition or removal of benefits or burdens after the conversion is complete such as restrictive covenants, easements, development and boundary line agreements, important “tie in” references, etc. that should have been picked up in your initial AFR/PDCA. In other words, you are fixing errors (hopefully yours and hopefully with no intervening interests). You may note the issue yourself, or more likely a purchaser’s or subsequent owner’s solicitor will identify your error and require you to rectify the parcel register and amend the PDCA. Also, the day will come when you are contacted by an LRA Auditor and are required to rectify one of your conversions.

### **Amendments required upon Revision**

A “revision” whereby you are adding a description for a benefit or burden that is granted after the conversion or removing a released benefit or burden. Remembering to amend the description after revising a parcel register by adding a benefit or burden is essential and is required pursuant to both LRAR 14(4) and 15(2) requires that an amending PDCA be submitted any time a benefit or burden is placed on an already converted parcel. This is not always on a sale – e.g. a new NSP easement, boundary agreements, a shared driveway agreement.

### **Amendments required as a result of Subdivision**

Additions of benefits or burdens that are not included in the system generated short form description upon subdivision. After subdivision, benefits and/or burdens are inherited by the parcel register for the infant PID, but these are not reflected in the description. The burdens and benefits in the parcel register must match the description.

You should always remember to consider the parent parcel after a subdivision has been completed. Saving and Exceptings for the infant parcels may have to be added to the description for the remainder of the parent parcel. Alternatively, it is possible that an easement benefit or burden is no longer applicable because it now only crosses one of the infant parcels. Even the MGA Compliance Statement should be changed to reflect that the remainder parcel (i.e. what is left of the parent parcel) was created by the newly registered plan. Use Form 45 to remove any “inherited” interests that do not apply to a particular “infant” lot (there is no fee for filing this form!) Both the Form 45 and the amended PDCA are mandatory by the subdividing owner: LRAR 9(3).

In the case of lots created by subdivision after migration, no MGA statement is added by SNSMR. While it is not strictly required, it is good practice while amending the PDCA to add the appropriate MGA compliance statement (ie generally the approved plan).

### **Other reasons**

This is obviously a vague category; however there are times when you may simply want to improve the description. For instance often a retracement survey provides a better and more complete description.

Amending a PDCA is governed by all the same provisions noted with respect to the usual PDCA. One should

however, be careful to consider whether he or she has the authority to amend the PDCA. Do you have a Consent/Authorization Form or a solicitor client relationship with the owner? Alternatively, are you authorized by LRAR s. 14(4) and/or 15(2) which gives you authority to amend the description for the servient PID when you are acting on behalf of an owner who has just registered his or her dominant interest against that PID? You will often have to amend more than one PID when there are documents registered that create both a benefit and a burden as between two parcels.

Although the requirement for an explanatory comment to be included with the amending PDCA may be limited to the addition of benefits and/or burdens, the inclusion of a comment identifying any change in an amending PDCA is advisable.

## CONVERSION PACKAGE

Most lawyers have developed some form of in-house form to document both authorization to convert the parcel, client instructions, and the confirmation of mapping graphics and abutters as required in most instances under the Administration Regulations.

This is in addition to and not in substitution for the required Form 5.

There is no “prescribed form” of authorization. When you have a solicitor-client relationship with all owners, you can convert the parcel based on that relationship and instruction, with only the graphic confirmation and Form 5 executed by the client (together, of course, with your foundation documents from which you derive your opinion on the state of title).

Before converting in final form, you must have this confirmation of graphics (noting any discrepancies in the comments box on the AFR) and executed Form 5. Many solicitors will take their clients’ migration up to and including the draft AFR based on verbal authorization coupled with the title search. It is the FINAL AFR that cannot be submitted without this written documentation in place.

In practice, solicitors have developed various forms. Some may serve more than one purpose, such as to provide information on aliases, bankruptcies, and so on. At a core, however, most forms provide for:

- Written authorization to convert
- Written acknowledgement that the mapping graphics are, or are not, correct (and what the discrepancies are, if any), including the identity of abutters
- Authority to make amendments and corrections to the PDCA and/or AFR

A sample is appended. It is not “the” form, unlike the prescribed ones under the LRAR; you will develop or modify your own over time.

**Authorization to Submit Parcel Description Certification Application and/or  
Application for Registration**

**Client Property Match and Confirmation**

To: M.I. Grate, Barrister & solicitor

And: To whom it may concern

In the matter of Parcel Identification Number (PID):

**OWNERSHIP AND AUTHORITY:**

I own the above PID(s), or am a person permitted by the Land Registration Administration Regulations to authorize a Parcel Description Certification Application and Application for Registration on behalf of an owner of the above PID(s)

**AUTHORIZATION TO CONVERT ("MIGRATE"):**

I authorize M.I. Grate, barrister & solicitor to perform such investigations and to submit such documents or forms as may be required in order to submit the parcel description certification application, amendments thereto, and applications for registration including corrections thereto if required. This includes, but is not limited to, a search of title and compliance with applicable law, including statutes, regulations, and practice standards.

**PROPERTY GRAPHIC MATCH:**

I have reviewed the legal description included in the property description certification application and the provincial mapping graphics, attached. I confirm that the graphics identified by the PID appear to match the legal description for the PID and that any names of abutters noted thereon are, to the best of my knowledge, correct. This does not constitute a representation or expression of opinion as to location, boundaries or extent of the parcel.

**RELIANCE:**

I understand and agree that M.I. Grate, barrister & solicitor, is relying upon this confirmation in submitting a property description certification application and application for registration under the Land Registration Act, notwithstanding any other enquiry he may have made.

This document shall be read with changes of number and gender required.

SEE MAPPING GRAPHIC AND NOTED ABUTTERS, ATTACHED

DATED at The Black Stump, Nova Scotia this     day of

← Back to Search Results

### Map Actions

- Point Select
- Pan
- Zoom In
- Zoom Out
- Zoom Box
- Monument Select
- Clear Selection
- Center Selection

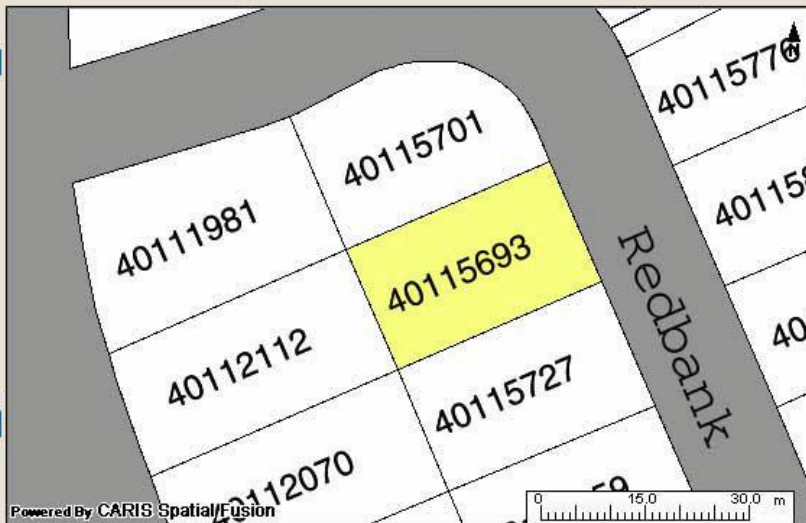
### Map Layers

- Properties
- Topo
- Monuments
- Place Names

Refresh Map

### Map Controls

NS Overview



Powered By CARIS Spatial/Fusion

Lat: 44-44-26N Long: 63-39-07W Scale: 737 Go Zoom: 2

Location:  Search

### 1 Property found

PID: **40115693** Details  
 AAN: **02184311**  
 Value: \$154,000 (2006 RESIDENTIAL TAXABLE)  
 Address: 19 REDBANK ROAD  
 BEDFORD LOT 31  
 County: HALIFAX COUNTY  
 Owner: ROBERT C BRUSSARD  
 TAMMY LYNN GALLIOTT  
 TAMMY LYNN BROUSSARD  
 ROBERT C BROUSSARD  
 LR: NOT LAND REGISTRATION

The Provincial mapping is a graphical representation of property boundaries which approximate the size, configuration and location of parcels. Care has been taken to ensure the best possible quality, however, this map is not a land survey and is not intended to be used for legal descriptions or to calculate exact dimensions or area. The Provincial mapping is not a substitute for the original land survey or other official records.



## **USE OF THE LEGAL DESCRIPTION AFTER CONVERSION**

Once a PDCA has been approved, it will be stored in the parcel register for the PID. It is important for you to note that the description may change from time to time via an amending PDCA or system generated short form description after subdivision.

In the event that you have occasion to need to know how the description has changed over time, you can go to the opening Property Online web page Query User Options and select "Search Parcel Description Database by PID (including historic descriptions)". This searching option will allow you to enter the PID in order to obtain search results that will show every version of the legal description from the current description all the way back to the initial PDCA. Amendments made after the December 2010 system changes will also identify the author and provide the public comments box, cited earlier, which can be enlightening.