



**CROFTING COMMISSION
COIMISEAN NA CROITEARACHD**

Great Glen House
Leachkin Road
Inverness IV3 8NW

Taigh a' Ghlinne Mhòir
Rathad an Leacainn
Inbhir Nis IV3 8NW

T: (01463) 663439

E: info@crofting.gov.scot

W: www.crofting.scotland.gov.uk

Decrofting Application Whole Croft Guidance Notes

Stiùireadh Di-chroiteadh iomlan



Decrofting is the term used when land is removed from crofting tenure.

1. REQUIREMENT TO REGISTER YOUR CROFT LAND

Submitting a decrofting application triggers the requirement to register your croft land in the Crofting Register held by the Keeper of the Registers of Scotland.

The Crofting Register is map based and provides a definitive record of the extent of, and interest in, land within crofting tenure in Scotland. In addition to showing the boundaries of land, the register also contains information on the crofter, owner-occupier crofter and/or the landlord of the registered croft. The Crofting Register is maintained by the Keeper of the Registers of Scotland, although the application for registration is made in the first instance to the Crofting Commission who will check the information contained in or accompanying the registration application against the information contained in the Commission's Register of Crofts.

If your croft is unregistered, the Commission will be unable to make a decision on your decrofting application until the croft has been registered with the Keeper of the Registers of Scotland. To avoid delays therefore, we recommend that your decrofting application should be accompanied by your application to register the croft on the Crofting Register (ROS form A). This must be accompanied by a map showing the boundaries of the croft along with the registration fee.

A copy of the registration form and accompanying guidance notes can be found at www.ros.gov.uk/services/registration/crofting-register. If an application to register is not submitted within 6 months of the date of receipt of this application, the application to decroft will be withdrawn from our records and returned to you.

If your croft is already registered with the Keeper of the Registers of Scotland, an application for Registration of a Subsequent Event (ROS form B) will be required should your decrofting application be approved. The Form B should not be submitted until after the Regulatory decision has been intimated.

2. IMPORTANT INFORMATION

Before you submit an application please check your details on the Commission's Register of Crofts <http://www.crofting.scotland.gov.uk/register-of-crofts-roc>

It is the Commission's understanding that there is no statutory provision contained in the Crofters (Scotland) Act 1993 which would enable an Executor to submit a decrofting application. This is consistent with our understanding that the role of an executor is to administer and distribute the estate belonging to the deceased at the date of death i.e. prior to any decrofting. It will of course be open to a successor to apply for a decrofting direction, should they choose to do so, once the succession to the tenancy/ ownership has been resolved.

Where the site applied for has more than one owner, you must arrange for Appendix 1 in the application form to be completed by all the owners.

If you have not previously advised us of your purchase of the croft land, please complete a 'Change of Ownership' form and any required Registration Form and submit it along with this application. You can access the form on www.crofting.scotland.gov.uk. Please refer to the Change of Ownership Guidance Notes.

If the application is being submitted by anyone other than the applicant, their Solicitor or Professional Agent, the form must be accompanied by written confirmation from the applicant that they authorise the signatory to act as their agent.

If you are a tenant and your application is approved, we will issue an '**Advance of Purchase**' decrofting direction. This means that to effect the direction you or your nominee must purchase the area approved within 5 years of the date of that direction and fulfill any registration requirements. This is a statutory time limit, which we cannot extend or modify. You may wish to inform your landlord of this application and of your intention to purchase the area so agreement can be reached with regard to extents and boundaries.

3. APPLICATION DETAILS

In considering its decision on this application, the Commission will give regard to the purpose and whether the extent applied for is appropriate for the stated purpose and not excessive in line with sections 24(3), 24(A) and 25 of the Crofters (Scotland) Act 1993 and the decrofting section of the Crofting Commission's Policy Plan.

Section 20(3) of the Crofters (Scotland) Act 1993

The Commission could consider a decrofting application to be for a reasonable purpose where it relates to:

- (a) the using, letting or disposing of the land for:
- the building of dwellings
 - small allotments
 - harbours, piers, boat shelters or other like buildings
 - churches or other places of religious worship
 - schools
 - halls or community centres
 - planting
 - roads practicable for vehicular traffic from the croft or township or the public road or to the seashore
 - the generation of energy or
 - any other purpose likely to provide employment for crofters and others in the locality or
- (b) the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.

Please note this list is illustrative only. It is not exhaustive, neither does the purpose indicated above guarantee approval of an application to decroft.

3.1 PLANNING PERMISSION

If the application is for a proposed new development, you must include a copy of the planning permission granted for the proposed development (either full planning permission or planning permission in principle).

If planning consent has been applied for but has not yet been approved when you make your application, we will need you to provide the planning application reference number. This is to confirm that you have applied for planning permission for the proposed development. Please note that we will be unable to take a decision on your decrofting application until planning permission is granted. You should notify us when you obtain planning permission so that we can resume the processing of your application as soon as possible. If planning permission is refused, we will be unable to proceed with your decrofting application and this will be returned.

4. DECROFTING GRAZING RIGHTS

The Commission will not normally decroft any grazings share which an applicant has title to and has included within a decrofting application. This is because the grazing right is regarded as part of a communal resource and no obvious purpose is served by its removal from crofting control.

5. WIDER INTERESTS

The Commission must have regard to whether it will be for the good of the croft, estate or the crofting community in the locality of the croft or the public interest. The Commission may also take account of the effect of the stated purpose on the sustainability of crofting or the crofting community* in that locality or the communities in that area, and the environment and landscape of that locality or area. The Commission may also consider the impact of the stated purpose on the social and cultural benefits associated with crofting.

**Crofting community means all the persons who (either or both) occupy crofts within a township which consists of two or more crofts crofts registered with the Crofting Commission; hold shares in a common grazing associated with that township.*

In this section you are provided with the opportunity to make any comments on these matters which you consider the Commission should take into account when considering your application.

5.1 PUBLIC INTERESTS

Crofting legislation does not define 'public interest', although it contains various references to it. It is therefore for the Commission to be satisfied that, where required on a case-by-case basis, the public interest test is met.

In exercising its functions, the Commission must have regard to (a) the desirability of supporting population retention in the crofting counties and in any other designated area where crofts have been created, and (b) the impact of changes to the overall area of land held in crofting tenure to the sustainability of crofting.

In determining if, for example, approving an application is in the public interest, the Commission may consider any evidence of the benefits and disbenefits to other crofters, crofting communities, the wider community and others the Commission considers as having an interest in the application. The Commission will also take into account the Scottish Government's crofting policies and will normally favour the wider public interest particularly where individual private interest will disadvantage the sections detailed above.

5.2 SUSTAINABLE DEVELOPMENT

Sustainable development of a crofting community will normally include the economic, social and environmental well-being of the community but meeting the sustainable development criteria need not require all of these strands. For instance, the agricultural aspect of crofting is not always necessarily financially sustainable, but this does not preclude it from adding value to the well-being of the individual and the surrounding community. Consideration of applications should take account of the maintenance and possible increase in populations, good management practices, the protection and enhancement of environmental assets, economic demand and employment opportunities, the protection and encouragement of biodiversity, the production of renewable energy reduction in carbon emissions, resource efficiency and the avoidance of dereliction of land. There are many criteria available when considering sustainable development although not all will be applicable to each circumstance.

6 ACCESS

The Commission will give priority to the provision of appropriate access to any adjacent croft land and, where appropriate, the common grazing. The provision should allow unrestricted access at all times including access for agricultural machinery (the recommended minimum width is 4 metres). Failure to meet this provision is likely to result in the application being modified or refused.

If the area to be decrofted includes access routes a map must be provided identifying these routes.

7 MAPPING INFORMATION

Your whole croft decrofting application must be accompanied by a map of the whole croft boundary highlighting the access to the croft and any neighbouring croft land. Please refer to the example plan (Appendix 1) for further details of requirements.

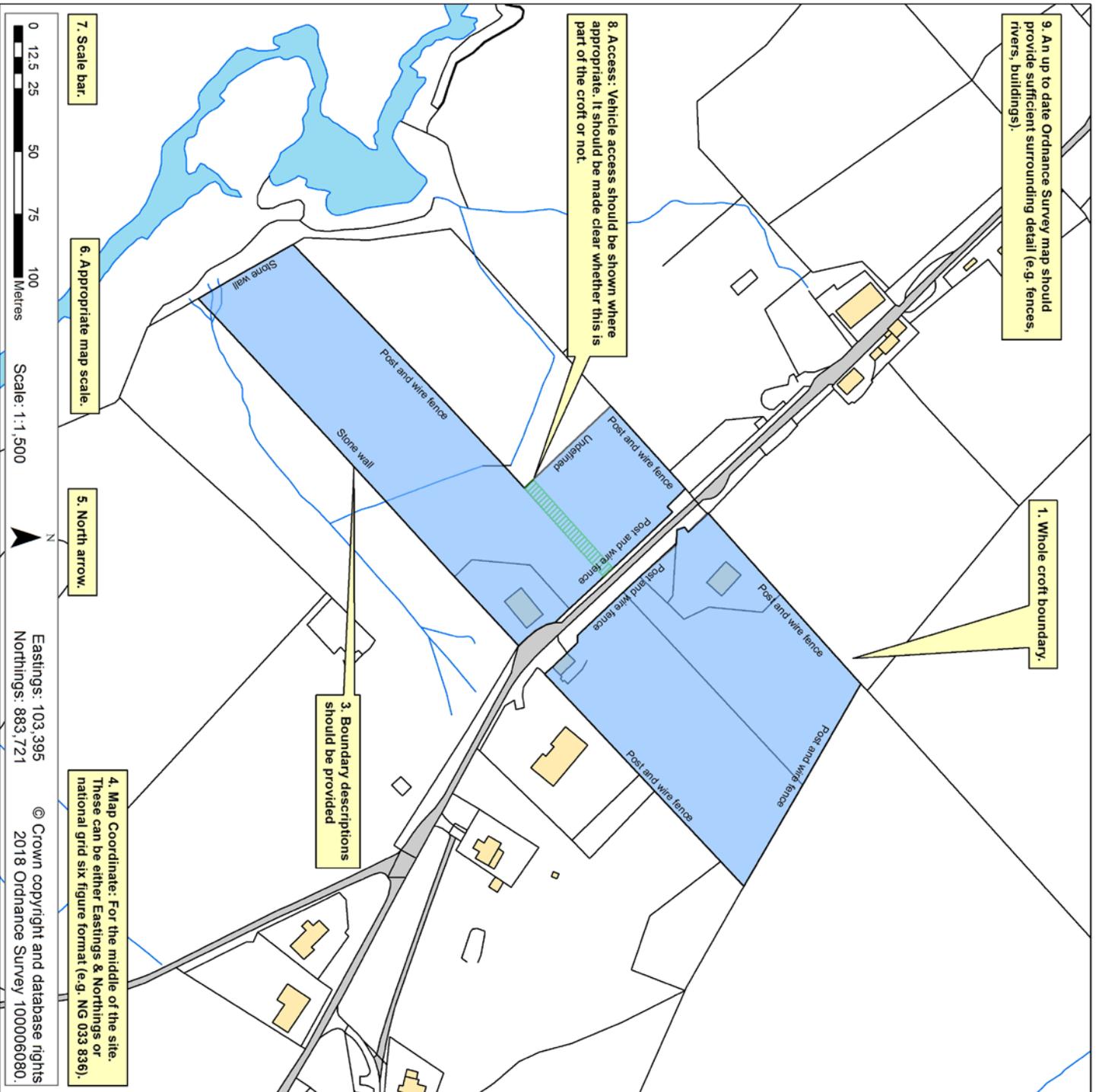
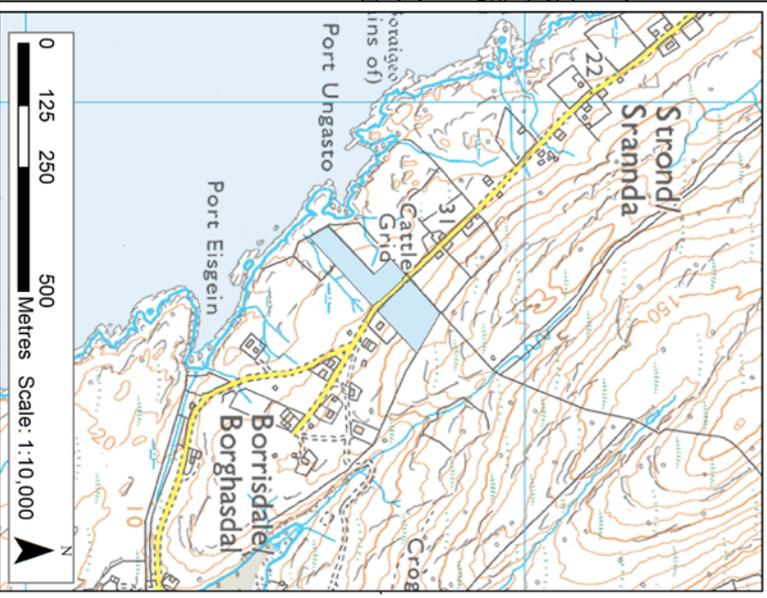
Appendix 1

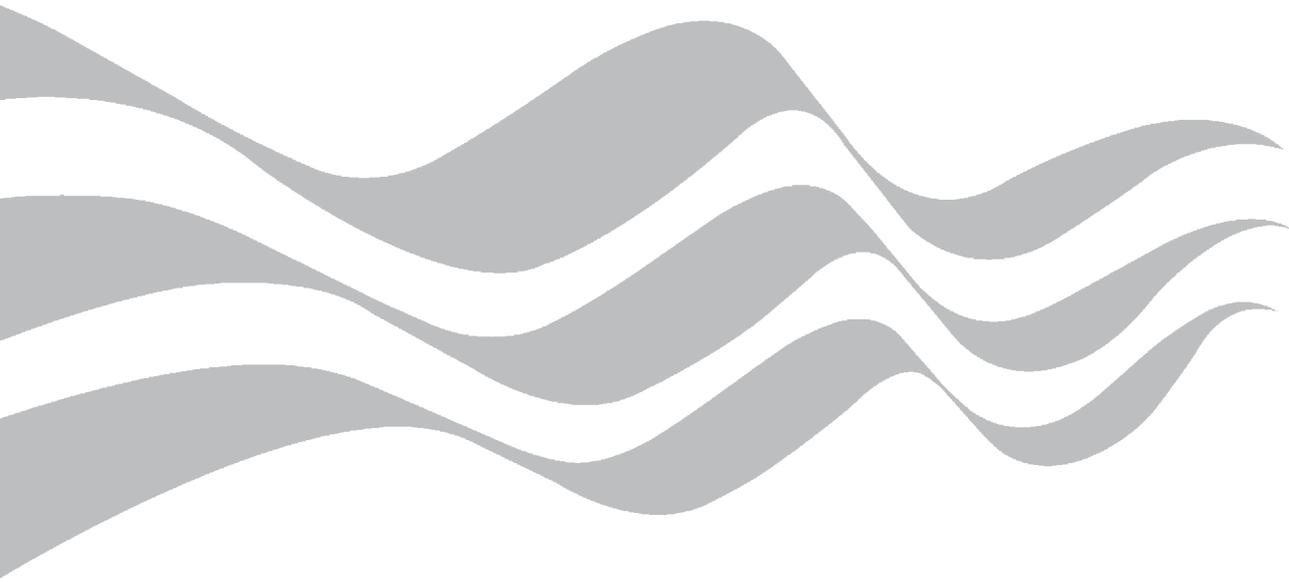
MAP FOR EXAMPLE PURPOSES ONLY

Legend

-  Croft
-  Vehicle access (within croft)

2. A location plan of the croft boundary should be provided if map coordinates cannot be given.





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