

Department for Environment, Food and Rural Affairs

Consultation on proposals to amend the Countryside and Rights of Way Act 2000 for coastal land

Response proforma

Please use this proforma to answer the questions in the above document. The closing date for the submission of responses is **Tuesday 1 December 2009**.

Please send your response :

- by email to: coast.consultation@defra.gsi.gov.uk
- or by post to: Andrew Crawford, Coastal Access Team, Zone 1/01, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB

The email address may also be used for general queries relating to this consultation.

In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resource Centre, Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR. The information they contain may also be published in a summary of responses. If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request.

You should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.

To help us analyse responses, please provide details of yourself or your organisation (* if appropriate) below.

Name	Hilary Winter
Organisation / Company*	Devon Countryside Access Forum
Job Title*	Forum Officer
Department*	
Address	Lucombe House County Hall Topsham Road Exeter EX2 4QW
Email*	hilary.winter@devon.gov.uk
Telephone*	01837 810921
Fax*	
Date of response	27 November 2009

NB: on the form below, please leave the response box blank for any questions that you do not wish to answer. Responses including any general comments you might wish to make are welcome on any number of the questions. For each question it would be helpful if you could please indicate whether you agree, disagree or are uncertain by marking the appropriate box.

Chapter 2		
1. Do you agree with the description of coastal land types (a) and (b) at paragraph 2.2 that should be included in the coastal margin ? If you do not agree, please give your reasons.		
Yes	<input checked="" type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input type="checkbox"/>	
Comment:		
2. Are there any other coastal land types you think should be included?		
Yes	<input type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input checked="" type="checkbox"/>	
Comment:		
Clarification is required on the position regarding estuaries and islands accessible at low tide, e.g. Burgh Island.		
3. Do you agree that the coastal margin should also include the categories of land set out in paragraph 2.3(c)? If you do not agree, please give your reasons.		
Yes	<input type="checkbox"/>	
No	<input checked="" type="checkbox"/>	
Not sure	<input type="checkbox"/>	
Comment:		

The Forum agrees with 2.3 C (i) and (ii). In point 2.3 C (iii) there is no provision for discretion in deciding whether all land to the seaward side should be included. Where land is at the report stage and the route is taken slightly inland this might present particular problems, for example fig. 18 in Natural England's draft scheme.

4. Do you agree that, where circumstances allow and subject to the provisions at paragraph 2.6, the route should be 4 metres wide? If not, what width do you think would be appropriate and why?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input type="checkbox"/>

Comment:

The Forum agrees a maximum of 4 metres is acceptable. Local circumstances should determine other widths.

Chapter 3

5. Do you agree it is important that users should have certainty that the route will be open?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input type="checkbox"/>

Comment:

There may be circumstances where it is necessary to restrict access. In these situations the provision of adequate signage and information is essential.

6. Do you agree that powers under section 22 of the CROW Act for landowners to restrict or exclude access, at their discretion, for up to 28 days per year are not appropriate for the coastal land and should be removed ?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input checked="" type="checkbox"/>

Comment:

The Forum thinks this question is not entirely clear and is too loosely defined. It believes landowners should retain the ability to impose restrictions on the margin and on spreading room. Any removal of powers under Section 22 should apply to the coastal route only. Use of Section 24 is not considered as flexible.

7. Do you agree that the powers under section 23 of the CROW Act for landowners to restrict access for people with dogs, at their discretion, for lambing purposes and on grouse moors are not appropriate for coastal land and should be removed?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>
Not sure	<input type="checkbox"/>

Comment:

The Forum takes the view that it is not considered unreasonable to allow landowners to continue to have these powers for land management purposes. While there is a need for certainty a balance needs to be struck with the requirements of land managers.

8. Do you agree that the relevant authority (Natural England) should be able to give directions for an exclusion or restriction of access under section 24 of the CROW Act without an application by a landowner?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input type="checkbox"/>

Comment:

9. Do you agree that the line of the coastal route should be exempted from the provisions in section 25 of the CROW Act which enable the relevant authority (Natural England) to restrict or exclude access for the prevention of fire risk?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>
Not sure	<input type="checkbox"/>

Comment:

The ability for Natural England to restrict access for the prevention of fire risk should be retained, even if exercised only in extreme circumstances.

10. Do you agree that the relevant authority (Natural England) should be able to give directions for the exclusion or restriction of access on the coastal margin to protect land adjoining the margin?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input checked="" type="checkbox"/>

Comment:

The majority took the view that this is reasonable. However, there is a minority view that a restriction on the coastal margin, affected by land adjoining the margin, is unreasonable and this is a different issue. Again there is some lack of clarity and the Forum would like confirmation that the coastal route will remain open.

11. Do you agree that Natural England should be able to restrict or exclude access to saltmarsh and mudflat where they are not appropriate for access?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input type="checkbox"/>

Comment:

The Forum welcomes the fact that this opens up the possibility for some saltmarshes and mudflats to be available for public access. Any restriction should be exercised with discretion and following consultation.

12. Do you agree that Natural England should be the relevant authority for all coastal land?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input type="checkbox"/>

Comment:

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13. Do you agree that it should be possible for Natural England to delegate the relevant authority role to National Park authorities if appropriate after the implementation phase?

Yes	<input checked="" type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

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Chapter 4

14. Do you agree with the proposals to retain the categories of excepted land listed in paragraph 4.3 as they relate to the coastal margin? If not, please state your reasons.

Yes	<input checked="" type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

The Forum does seek further information on 'land used for the getting of minerals'. In some places there is an "ancient right" for landowners to take sea sand for use as a lime supplement on the land or for other farming purposes. The Forum would welcome legal clarification that access to coastal land to exercise these rights would not be affected by the excepted land categories.

15. Do you agree that, in the context of the coastal margin, land within 20 metres of a dwelling should not be excepted from the right of access?

Yes	<input type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input checked="" type="checkbox"/>	

Comment:

There should be a presumption that the route should not go within 20 metres and this should be subject to consultation. Defining what constitutes a garden (excepted land) in many coastal areas is difficult and clarification is needed on this as many 'gardens' would fall within 20m of a dwelling.

16. Do you agree that, in the context of the coastal margin, land within 20 metres of a building used for housing livestock (not being a temporary or movable structure) should not be excepted from the right of access?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input checked="" type="checkbox"/>

Comment:

17. Do you agree that, in the context of the coastal margin, land habitually used for the training of racehorses should not be excepted from the right of access?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input checked="" type="checkbox"/>

Comment:

18. Do you agree that the route should be able to pass along the edge of a cultivated field where this forms the most suitable route?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input checked="" type="checkbox"/>

Comment:

The Forum takes the view that any route along the edge of a cultivated route should not necessarily be 4 metres in width. Such a route might be essential to the overall coastal path and could be of a narrower width yet still allow room for passing. Again local consultation should deal with such matters.

19. Do you agree that where there is no suitable route to the seaward of a golf course the route should be able to pass through the golf course?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input checked="" type="checkbox"/>

Comment:

The same comments about the route not necessarily being as wide as 4 metres apply.

20. Do you agree that licensed or annually certified camp and caravan sites on the coast should be a new category of excepted land except to allow for a route through?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input checked="" type="checkbox"/>

Comment:

It should be recognised that these are private businesses. Any route should be put in place through careful negotiation and there are some concerns. Where businesses might be affected compensation might be appropriate and should be explored.

21. Do you agree that residential park home sites should be excepted land except to allow for a route through?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Not sure	<input checked="" type="checkbox"/>

Comment:

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22. Do you agree that temporary camp or caravan sites should not be excepted land?

Yes	<input type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input checked="" type="checkbox"/>	

Comment:

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23. Do you agree that highways should be added as a new category of excepted land?

Yes	<input checked="" type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

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24. Do you think that it is important that graveyards and cemeteries should be a new category of excepted land for land which is coastal margin? Do you have particular examples of such land uses on the coast which you think it would be useful for us to consider as part of this consultation exercise?

Yes	<input type="checkbox"/>	
No	<input checked="" type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

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25. Do you think that it is important to include school playing fields as a category of excepted land for land which is coastal margin? Do you have particular examples of such land use on the coast which you think it would be useful for us to consider as part of this consultation exercise?

Yes	<input checked="" type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

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26. Are there any other categories of land found in built up areas that are not covered by existing categories of excepted land and which you think should be excepted from the right of access? Do you have particular examples of such land uses on the coast which you think it would be useful for us to consider as part of this consultation exercise?

Yes	<input type="checkbox"/>	
No	<input checked="" type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

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27. Do you agree with the proposal not to add a new category of excepted land to Schedule 1 to cover specifically any land used as a marina, yacht club or boatyard?

Yes	<input type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input checked="" type="checkbox"/>	

Comment:

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28. Do you agree that slipways, hards and quays should be included in the right of access?

Yes	<input checked="" type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

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29. Are there any other structures typically found along the coast that you think should be included in the right of access? Do you have particular examples of such structures on the coast which you think it would be useful for us to consider as part of this consultation exercise?

Yes	<input type="checkbox"/>	
No	<input checked="" type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

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30. Do you have any comments on the definitions? Should any of the definitions be amended as they apply specifically to coastal land and, if so, how?

Yes	<input checked="" type="checkbox"/>	
No	<input type="checkbox"/>	
Not sure	<input type="checkbox"/>	

Comment:

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The Forum advises that improved grassland is a crop and should be included within the definition of cultivated land.

Chapter 5

31. Do you agree that the restriction requiring dogs to be kept on a lead between 1 March and 31 July should be disapplied for land that is coastal margin?

Yes

No

Not sure

Comment:

32. Do you agree that there should instead be a general requirement to keep dogs under effective control on the coastal margin as discussed in paragraph 5.3?

Yes

No

Not sure

Comment:

Effective control sounds an excellent aim but it is unclear how this can be successfully demonstrated and measured. A consistent approach is required so the public are aware of the requirements. The Forum is aware of debates taking place at national level on dogs and livestock and it would hope these deliberations would inform the criteria for dog restrictions. Where restrictions impose dog leads signs should explain clearly the reasons.

33. Are there any other requirements that you think should be reflected in a description of effective control in addition to those at paragraph 5.3?

Yes

No

Not sure

Comment:

Further consideration as to how effective control can be demonstrated.

34. Do you consider that paragraphs 1(f) and 1(j) of Schedule 2 to the CROW Act should be amended to remove the restrictions for the purpose of fishing in the sea and tidal waters on land that is coastal margin?

Yes

No

Not sure

Comment:

35. Are you aware of any situations on the open coast or on the tidal part of estuaries where taking this approach would affect other existing arrangements for providing access to the water in order to exercise the public right to fish?

Yes

No

Not sure

Comment:

There could be conflict with licenced fishing sites but the Forum is not aware of specific examples.

36. Do you agree that there should be a new restriction to prevent obstructions to the coastal route?

Yes

No

Not sure

Comment:

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Any other comments:

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Thank you for your response