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# Summary of responses to the Consultation on proposed regulations for appeals against works notices, exclusions and restrictions of access, and dedication of land

**Consultation period: 1 April to 24 June 2011**

August 2011

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# Executive Summary

*A Consultation on proposed regulations for appeals against works notices, exclusions or restrictions of access and dedication of land* was published for comments between 1 April and 24 June 2011. We received 15 responses to the consultation and we intend to amend the proposals in some respects to reflect the comments made.

The main changes that we will make will be to the time limits for various stages of an appeal under paragraph 4(1) of Schedule 20 to the Marine and Coastal Access Act 2009 against works notices given under paragraph 3(3) of that Schedule, and “means of access” appeals under section 38 of the Countryside and Rights of Way Act 2000 including:

- 6 weeks for the submission of a statement of case or representations to be made to the Secretary of State;
- 9 weeks for the appellant or the access authority to comment on statements of case submitted by the other party and any representations;
- not less than 4 weeks’ written notice by the Secretary of State of the date, time and place for holding either a hearing or an inquiry; and
- not more than 8 weeks between the conclusion of any pre-inquiry meeting and the start date of an inquiry; and
- not less than 4 weeks for the submission of a statement of common ground to the Secretary of State before the date of an inquiry.

Changes will be made to the Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003:

- a relevant authority will be required to send a local access forum a copy of the published notice on proposals for a long-term exclusion or restriction of access rather than a copy of the application document; and
- the published notice will state how copies of documents relating to the proposals for a long-term exclusion or restriction of access direction might be obtained.

Changes will be made to the Access to the Countryside (Dedication of Land) (England) Regulations 2004:

- to remove the proposal that a description rather than a map of the land to be dedicated could be provided where the consent of a person was requested to such a dedication.

## 1. Introduction

1.1 Part 9 of the Marine and Coastal Access Act 2009 (“the 2009 Act”) includes provisions to improve public access to the English coast. The 2009 Act introduces amendments to existing public access legislation to enable the objectives to be implemented: the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”) to provide a procedure for the designation of a coastal route or routes; and the Countryside and Rights of Way Act 2000 (“the CROW Act”) under which the right of public access to the route and coastal margin will be provided.

1.2 The coastal access provisions in the 2009 Act place a duty on the Secretary of State and Natural England to secure two linked objectives:

- that there is a route for the whole of the English coast consisting of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
- that in association with the route there is a margin of land along the length of the English coast which the public can have access to and enjoy for the purpose of open-air recreation.

1.3 A copy of the 2009 Act and Explanatory Notes can be found on the Government’s legislation service website at <http://www.legislation.gov.uk/ukpga/2009/23>.

1.4 On 1 April 2011 Defra issued a public consultation paper *Consultation on proposed regulations for appeals against works notices, exclusions or restrictions of access and dedication of land* seeking views on a number of detailed proposals for the regulations:

- Appeals against works notices – regulations for appeals under paragraph 4(1) of Schedule 20 to the 2009 Act against works notices given under paragraph 3(3) of that Schedule, and “means of access” appeals under section 38 of the CROW Act;
- Exclusions or restrictions of access - regulations for any new exclusions or restrictions of access under sections 24 to 28 of the CROW Act which were not included as part of a coastal access report which has been approved by the Secretary of State; and
- Dedication of land - regulations under section 16 of the CROW Act which would allow a landowner or long leaseholder to be able to dedicate land on or adjacent to the coastal margin as coastal margin.

1.5 The consultation closed on 24 June 2011. 15 responses were received from a range of individuals and organisations, as set out in the table below. A list of respondents by category, other than individuals, is at **Annex B**. We are grateful to everyone who contributed to the consultation.

**Table: Number of respondents by category**

<b>Category of respondents</b>	<b>Number of respondents</b>
Individuals	1
Land managers and representative organisations	2
Local Access Forums	4
National Park Authorities	3
Other organisations	2
Recreation organisations	2
Wildlife organisations	1

1.6 This summary of responses sets out the main conclusions from an analysis of the comments received, and highlights any changes we intend to make to the original proposals as a result of the comments made. Copies of all the responses are available from the Defra Information Resource Centre. The Defra Information Resource Centre can be contacted on tel: 020 7238 6575 or email: [defra.library@defra.gsi.gov.uk](mailto:defra.library@defra.gsi.gov.uk).

## 2. Key points from the responses to the consultation on regulations on appeals against works notices and our response

2.1 Chapter 2 of the consultation paper dealt with proposed new regulations under paragraph 4(5) of Schedule 20 to the 2009 Act for appeals to the Secretary of State relating to notices made to the establishment and maintenance of the coastal route given under paragraph 3(3) of that Schedule, and for appeals relating to “means of access” under section 38 of the CROW Act.

### **Proposals for regulations**

2.2 For open access land the right of access came into force on a date set out in a Commencement Order made by the Secretary of State under the CROW Act. The position for coastal land under the 2009 Act is different. The right of access for a particular stretch of the English coast will come into force after a Natural England coastal access report has been approved by the Secretary of State, and on a day appointed by the Secretary of State at the end of the period defined as the “access preparation period”. The “access preparation period” is there to allow Natural England to make preparations to make the coastal route suitable for public access such as signing the route and any establishment works.

2.3 In the “access preparation period” Natural England or the access authority will wish to reach agreements with the owner or occupier of any coastal land where they consider it necessary to carry out any establishment works. If no such agreement can be reached, Natural England or the access authority may give a notice under paragraph 3(3) of Schedule 20 to the 2009 Act, and a person who has been given a notice may make an appeal against a notice if they so wish. The appeal will be determined by the Secretary of State.

2.4 We proposed revoking the existing regulations The Access to the Countryside (Means of Access, Appeals) (England) Regulations 2004 (SI 2004 No.3305) and making new regulations which would shorten a number of the notice and time periods in the existing regulations. The time limits in the proposed new regulations would apply to both appeals against notices relating to establishment and

maintenance works for the coastal route under Schedule 20 to the 2009 Act and to any appeals made against notices under section 38 of the CROW Act.

### Proposals relating to notice periods

2.5 Although a number of respondents to the consultation paper agreed the merit of harmonising the time limits for both types of appeals, the majority of respondents did not support the proposed reduction in the time periods saying that they would be very challenging and that keeping to the existing time limits would provide a better and more appropriate duration for the various stages in an appeal. One respondent suggested that a more appropriate mechanism for dealing with any possible appeals on the Weymouth stretch of the English coast would be to introduce a clause into the legislation that allowed the Secretary of State to set different time limits in exceptional circumstances, or in circumstances of national interest.

2.6 Respondents had particular concerns about the proposed time periods in which the access authority and the appellant could submit comments and then comment on statements of case submitted by the other party and any representations by interested parties. Time periods were considered not long enough and likely to put a disproportionate amount of pressure on Natural England or the access authority, and in particular on the appellant, in being able to meet them.

2.7 **We recognise that the Secretary of State has a duty under section 297(3) of the 2009 Act in that she “*must aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land*” and therefore that it is in everyone’s best interest for any appeals to be dealt with in an efficient and timely manner.**

2.8 **Natural England’s approach to planning and implementation of the coastal access provisions is set out in the Coastal Access Scheme<sup>1</sup>, as approved by the Secretary of State under section 298 of the 2009 Act, and stage 8 of the implementation process covers the preparation and commencement of access rights. Natural England will work with the access authority to carry out any necessary establishment works and will also**

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<sup>1</sup> <http://naturalengland.etraderstores.com/NaturalEnglandShop/NE269>



**discuss with the owner or occupier any new infrastructure necessary on each stretch of the coastal route such as gates and steps. It will seek agreements on aspects such as their design, installation and maintenance. Natural England has stated that in practice it will normally have held preliminary discussions with the owner or occupier about these aspects during the “walking the course “stage of the implementation process.**

**2.9 We said in the consultation paper that the reduced time limits for some stages of the appeal process had primarily been proposed in order to accommodate the time we felt necessary to ensure that the right of coastal access came into force in Weymouth in time for the start of the Olympics. But we also believed that Natural England’s consultation with owners or occupiers would generally mean that it was likely that agreements on any proposed works would have been reached. This would minimise the number of appeals likely to be made. Our view was that the proposed time periods, which were set out in the consultation paper, would have been sufficient to enable all parties to have had a fair and transparent determination of an appeal.**

**2.10 However we have taken on board the specific comments made by respondents about a number of the proposed time limits for appeals. As a result we will retain the current periods of time that are provided for in the current regulations at a number of stages of the appeal process:**

- 6 weeks for the submission of a statement of case or representations to be made to the Secretary of State; and**
- 9 weeks for the appellant or the access authority to comment on statements of case submitted by the other party and any representations.**

**2.11 We will include in the regulations a provision for the Secretary of State to give a direction setting later time limits than those prescribed in the regulations for the taking of any step or the doing of anything.**

**2.12 We received specific comments both for, and against, the proposed time limits for the date of an appeal to be determined by way of a hearing and also about the required notice period by the Secretary of State of the date of the hearing to the appellant, appropriate authority and every interested person. One respondent said**

that it expected greater provision to be made for third parties and other interested persons to make comments on an appeal or directly at hearings which may be made against notices under section 38 of the CROW Act and that under Definitive Map and Public Path Orders. Another noted that enough time must be allowed for the access authority to prepare and collate their evidence before a hearing.

**2.13 We do not intend to change the proposed period of not later than 18 weeks for the date for holding a hearing from the start date of the appeal. But this will be subject to the proviso that the hearing may be held later than 18 weeks, if the date fixed for the hearing is not practicable. We will provide for a period of not less than 4 weeks' written notice by the Secretary of State of the date, time and place for the holding of the hearing.**

2.14 Respondents generally said that the proposed amendment to the time limits for an appeal to be determined by way of a pre-inquiry and/or inquiry were too restrictive. One respondent commented that an appeal should, wherever possible, be determined by written representations rather than by way of a hearing or inquiry in order to avoid unnecessary bureaucracy.

**2.15 While it is for the Secretary of State or the Inspector to decide whether a hearing or inquiry is necessary, we support the view that most appeals should if possible be determined by written representations rather than by way of a hearing or inquiry. We do not intend to change the proposed period of within 12 weeks for any pre-inquiry meeting, nor a period of not later than 18 weeks for the date for holding an inquiry from the start date of an appeal (where no pre-inquiry meeting is held) but this will be subject to the proviso that the inquiry may be held later than 18 weeks, if the date fixed for the inquiry is not practicable. We will provide in the regulations:**

- **not more than 8 weeks between the conclusion of any pre-inquiry meeting and the start date of an inquiry;**
- **not less than 4 weeks' written notice by the Secretary of State of the date, time and place for the holding of an inquiry; and**
- **not less than 4 weeks for the submission of a statement of common ground to the Secretary of State before the date of an inquiry.**

Site inspections

2.16 One respondent said that site inspections to clarify points of discussion should be permitted and that anyone who made a representation on an appeal should be permitted to attend a site inspection. There was general agreement that the appellant and the access authority should retain the right for a site inspection to be held as they had the local knowledge of the site and were best placed to determine the necessity, or otherwise, of a site inspection. It was suggested that the legislation should be amended so that if either the appellant or access authority requested a site inspection, then that request would be upheld if the other party agreed or if the Secretary of State or the Inspector considered it to be expedient.

**2.17 We proposed in paragraph 2.19 of the consultation paper to remove the provision in the existing regulations that a site visit had to be arranged if so requested by either the appellant or the access authority and proposed to follow the provision in the Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010<sup>2</sup> which placed the responsibility on whether or not to hold a site inspection on the “appointed person” on the basis of their professional judgement. This would apply whether the appeal was to be determined on the basis of written representations, or by way of a hearing or an inquiry.**

**2.18 We accept that on the notice of appeal form the appellant might wish to present a case as to the reasons why a site inspection would be helpful to assist the Secretary of State or inspector in reaching a decision on the appeal, but we believe that the decision and responsibility on whether or not to hold a site inspection should rest with the Inspector. Where an inspection of the appeal land is to be made the Inspector must ask the appellant and the access authority whether they wish to be present or represented at that inspection.**

#### Changes of procedure

2.19 We proposed in the consultation paper that it should be up to the Secretary of State or the inspector to decide if necessary to change the way in which an appeal was being determined. No change was proposed to the current requirements on the Secretary of State to notify the appellant, the appropriate authority, the local access

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<sup>2</sup> SI 2010 No 1976

forum and any interested person of any proposed change to the way an appeal was to be determined. One respondent noted that local access forums should be notified at all stages of an appeal.

**2.20 We accept that on the notice of appeal form the appellant should be able to present a case for the way in which they think the appeal should be determined, but we consider that a decision to change the way in which an appeal should be determined, where that appeal has started but no decision on that appeal has been made, should rest with the Secretary of State or the Inspector. An appellant and the access authority will continue to be entitled to appear at either a hearing or an inquiry, and also give evidence. There will continue to be notification to local access forums of the start of an appeal procedure, of the decision of an appeal and of any withdrawal of an appeal. The general notification of any hearing or inquiry in local newspapers, a notice on the appeal site and on the website will continue.**

#### Other issues

2.21 Two respondents made suggestions for amendments to paragraphs 1 and 2 of Schedule 20 to the 2009 Act including that the powers in Chapter 3 of the CROW Act should cover all section 15 land and not just section 15 route land (paragraph 1(1)), and that the works covered by an agreement with the owner or occupier of the land should include the clearance or maintenance of land in the coastal margin and not just the coastal route (paragraph 2(3)(a)).

**2.22 Under paragraph 4(5) of Schedule 20 to 2009 Act regulations may make provision as to the period within which and the manner in which appeals may be made; the advertising of such an appeal; and the manner in which appeals are to be considered. Any changes to Schedule 20 to the 2009 Act are outside the scope of the new regulation. We have no plans to amend Schedule 20 to the 2009 Act.**

2.23 Two respondents suggested that the proposed regulations should make it clear that whichever of Natural England or the access authority was exercising the functions of Chapter 3 of the CROW Act, it was that organisation which was required to undertake the actions specified in the regulations. In addition it was suggested that either Natural England or the access authority was informed of relevant

information and dates about an appeal, where that organisation had not given the initial notice.

**2.24 We will provide for the regulations to make it clear whichever of Natural England or the access authority is exercising the functions of Chapter 3 of the CROW Act. There will be a number of provisions within the regulations which will require the notification of information about the appeal, for example, the date fixed for a hearing or inquiry. We think that it should be upto Natural England and the access authority to agree how best to keep each other informed about an appeal above and beyond what is required under the regulations.**

2.25 The current regulations SI 2004 No.3305 includes the use of the terminology of "within x weeks of" and "no later than x weeks after". One respondent commented that there should be consistency of wording throughout the regulations as they considered the current terminology could cause confusion.

**2.26 We have looked at the issue of the consistency of the wording in the regulations and consider the current wording on time limits to be appropriate.**

### **3. Key points from the responses to the consultation on regulations on exclusions or restrictions of access and our response**

3.1 Chapter 3 of the consultation dealt with proposed regulations relating to the exclusion or restriction of access on coastal land.

#### **Proposals for regulations**

3.2 We proposed in the consultation paper making a number of changes to the existing regulations The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 (SI 2003 No.2713), as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 (SI 2006 No 990) so that they applied to coastal access land. In particular we proposed a number of changes to reflect that section 24 of the 2009 Act had been

amended by the Access to the Countryside (Coastal Margin) (England) Order 2010<sup>3</sup> (“the 2010 Order”) and that a relevant authority<sup>4</sup> could exclude or restrict access to a salt marsh or flat.

**3.3 The proposals for extending the existing regulations on exclusions or restrictions of access to cover coastal access land were generally agreed. The main comments focused on the issue of possible exclusions or restrictions of access to salt marshes and flats where some respondents said salt marsh and flats were dangerous land forms, and of high conservation value, and that public access to these areas should not be encouraged nor should new rights of access be created on them. The opposite view was put forward by other respondents that many salt marshes and flats were suitable for access without any problems or conflicts, with public rights of way, sea walls and defences being able to accommodate access easily and safely. As such there should be no blanket ban on access on salt marshes and flats with exclusions or restrictions of access in place only where their use by the public could be shown to be unsafe, interfere with land management to a degree needing a restriction, or pose a risk to sensitive wildlife or habitat. All directions made by Natural England should in any case be made using the “least restrictive option”.**

3.4 One respondent sought clarification as to whether a person with an interest in land would be able to seek an exclusion or restriction of access over a salt marsh and flat, or whether an exclusion or restriction would solely be at the discretion of Natural England.

**3.5 Article 20 in Part 3 of the 2010 Order introduced a new section 25A of the CROW Act which enables a relevant authority to exclude or restrict access to any land which is coastal access consisting of a salt marsh and flat if it is considered unsuitable for public access. A person with an interest in land is not able to seek an exclusion or restriction of access. However section 7.15 of Natural England’s Scheme makes it clear that any decision by a relevant authority to exclude or restrict access on a salt marsh or flat will be made in**

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3 SI 2010 No 558

<sup>4</sup> “the relevant authority” in relation to any land which is coastal margin , means Natural England (section 21(5)(za) as inserted by the 2010 Order.

**consultation with local interests in order to help identify any areas that are suitable or unsuitable for public access, or that are already used by the public for recreation.**

**3.6 We would draw attention to paragraph 6.3 of Natural England’s Scheme which notes that where a relevant authority decides that specific intervention is necessary it will adopt the “least restrictive option” on public access.**

#### Site inspections

3.7 Three respondents said that the decision as to whether or not a site inspection was necessary should remain with the Inspector who was best placed to make that decision. One respondent said that third parties, other interested persons and representatives of bodies who were listed in Schedule 1 of The Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010 [SI2010 No. 1976] should be notified of site visits and able to be present.

**3.8 Our comments on the responses to the proposals for site inspections for appeals against the exclusion or restriction of access on coastal land parallel those in paragraphs 2.16 – 2.18 of this summary of responses to the consultation paper.**

**3.9 We do not think it appropriate or necessary that the regulations should make provision for third parties, other interested persons and representatives of bodies as listed in Schedule 1 of The Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010 to be notified of site inspections and be able to be present at inspections.**

#### Other issues

**3.10 We propose to change the existing regulation 9 which requires a relevant authority<sup>5</sup> to send a copy of an application to the local access forum for the purpose of consulting on a proposal for a long-term restriction or exclusion of access under section 27(1) of the CROW Act. This is in response to a suggestion that the way the regulations dealt with the review of long-term**

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<sup>5</sup> “relevant authority” in relation to access land is defined in section 21(5) of the CROW Act

**directions of exclusions or restrictions should be changed as a result of lessons learnt from the administration of open access restrictions by relevant authorities.**

**3.11 We agree that rather than requiring a relevant authority to have to send the local access forum a copy of the original application document, it would be more appropriate if the information in the notice a relevant authority publishes under regulation 9(3) and sent to a local access forum included a breakdown of the information provided by the applicant. We will therefore amend regulations 9(1)(a) and (b) and 9(3), particularly so that any personal information which has been provided by an applicant will not be included within the published notice.**

**3.12 Regulation 9(3)(c) requires a relevant authority to state in the notice where documents relating to the proposed long-term direction may be inspected and copies obtained. We have discussed the issue with Natural England who have advised that no such requests to inspect documents have been made to them since the current regulations came into force. We think it would be better if a relevant authority was instead to state in the notice it published how copies of documents relating to the proposed long-term direction might be obtained. We will amend the regulation accordingly.**

**3.13 We have also considered the suggestion for a change to be made to regulation 15 in order to simplify the procedures in which the relevant authority has to consult the local access forum on the review of long-term directions of exclusions or restrictions required under section 27(3) of the CROW Act. We have discussed this suggestion with Natural England and have concluded not to make any change to the regulations. Natural England will instead look to change the way a relevant authority consults a local access forum so that it makes clear it is asking for the local access forum's initial view on the need for the existing long-term direction and will then consult them later on the relevant authority's provisional conclusion for a direction.**



## 4. Key points from the responses to the consultation on regulations on dedication of land and our response

4.1 Chapter 4 of the consultation dealt with proposed regulations under section 16 of the CROW Act which would allow landowners or long lease holders to be able to dedicate land on or adjacent to the coastal margin as coastal margin under section 16 of that Act.

### Proposals for regulations

4.2 The consultation paper proposed making a number of changes to the existing regulations The Access to the Countryside (Dedication of Land) (England) Regulations 2003 (SI 2003 No.2004) to allow the freehold owner or a long leaseholder to be able to dedicate land on or adjacent to the coastal margin as coastal margin under section 16 of the CROW Act.

4.3 There was general support for the principle of a landowner or long leaseholder being able to dedicate land for open access with one respondent wishing to see work undertaken to promote the dedication of land. The “access preparation period” was suggested as the ideal time and opportunity for this work to be undertaken. One respondent commented that in practice it might be difficult for tenants of agricultural land to dedicate land as coastal margin, although this decision would be taken on an individual business by business case. One respondent noted that there could be some circumstances where opening land to access could impact to the detriment of the nature conservation value of the land concerned and that before making a dedication any proposal should be subject to an “appropriate assessment”.

4.4 **We have noted the general support for dedication of land and that the “access preparation period” would be an ideal time and opportunity for work promoting dedication to be undertaken. We said in the consultation paper that indeed Natural England might wish to start off discussions about dedicating land as coastal margin with landowners and long leaseholders during the earlier “walking the course” stage of the implementation process.**

**4.5 Paragraphs 5.1 to 5.4 of the existing Guidance note on dedication<sup>6</sup> recommends that a person who is considering making a dedication should contact English Nature (now Natural England) if any part of the proposed dedicated land included a Site of Special Scientific Interest. We will consider the issue of an “appropriate assessment” – a principle acknowledged in paragraphs 4.8.9 - 4.8.11 of Natural England’s Scheme - as part of any revisions which we intend to make to the current dedication guidance. We will look to more widely publicise the benefits of dedication, in particular the reduced level of occupiers’ liability for landowners.**

4.6 There was also support for the proposal for a person who was proposing to dedicate land to provide a statement as to whether the land was being dedicated as coastal margin - and that such dedication would allow for use of such land by, for example, horse riders or cyclists – and for the instrument of dedication to include such a statement. Some respondents did not agree with the proposal to amend the existing regulation 4(2) so that a description of the boundary of the proposed dedicated land could be made rather than a map. This was because a map of land was considered to be clearer than a description - it could be easily visualised leaving little room for doubt whereas a description of land might be open to different interpretations.

**4.7 Regulation 4(2) currently requires a person who is proposing to dedicate land under section 16 of the CROW Act, and who is seeking the consent of any other person to the dedication of any such land under section 16(2) of that Act, to provide a number of pieces of information to that person. One of these is to provide a map on a scale of not less than 1/10000 showing the location and extent of the land which is to be dedicated. Our proposal at paragraph 4.11 of the consultation paper was to allow a person who was proposing to dedicate coastal margin land the option at this initial stage of the dedication process to provide a description of the boundary of land to be dedicated if they so wished rather than having to provide a map. We have reconsidered this and concluded that it would be better to retain the consistency of the procedure with the approach taken in the existing regulations for a map to be provided.**

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<sup>6</sup> <http://archive.defra.gov.uk/rural/countryside/crow/dedicate.htm>

**4.8 The consultation paper proposed no change to the current requirement in regulation 5(1)(c) that the instrument of dedication should include a map on a scale of not less than 1/10000 showing the location and extent of the land to be dedicated. We agree with respondents that it is important for the instrument of dedication to provide clarity about the land to be dedicated.**

**4.9 On the proposed amendment to regulation 7 (which covers amendment to a dedication) two respondents questioned why if exclusions or restrictions were already in place it was necessary for these exclusions or restrictions to be re-applied for. They commented that this seemed to place additional bureaucracy on landowners and long leaseholders.**

**4.10 To date there have been dedications of land under section 16 of the CROW Act covering a total area of approximately 155,800 hectares, of which 152,200 hectares (97% of the total figure) is land which has been dedicated by the Forestry Commission. Only about 135 hectares of the figure of 155,800 hectares is dedicated land situated by the coast and which possibly might be included within the coastal margin, once that stretch of the coast is included in a coastal access report approved by the Secretary of State. Of the figure of 135 hectares about 114 hectares (85% of the total figure) is land again dedicated by the Forestry Commission. There are currently no exclusions or restrictions in place on any of these areas of land at the coast which have already been dedicated under section 16 of the CROW Act.**

**4.11 Land which is already dedicated under section 16 of the CROW Act and which falls within the coastal margin approved by the Secretary of State will become coastal margin by default and subject to coastal access rights and restrictions. There would be no need to amend the existing dedication in any way if this happens, but Natural England would need to propose in its coastal access report new directions to exclude or restrict access to replicate any directions that were previously in place on the dedicated land (assuming they were still necessary). Land adjoining the coastal margin can be dedicated as coastal margin as this would enable the owner to benefit from the reduced occupiers' liability on the coastal margin.**

**4.12 We do not consider that any possible need to amend an existing dedication so that it would be applicable for land which becomes dedicated as**

**coastal margin, or to have to apply for any exclusions or restrictions applying on that land, creates a real burden on a landowner or long leaseholder. Any discussions about the possible dedication of land as coastal margin can be carried out by Natural England during the early “walking the course” and consultation stages of the implementation process. We consider this will give sufficient time for any changes to an existing dedication to be discussed and, if and as necessary, made.**

4.13 One respondent said that there ought to be a simpler process than dedicating land whereby a landowner could relax one or more of the general restrictions on persons exercising their right of access— for example, to allow horse riding on a beach.

4.14 **Dedication of land under section 16 of the CROW Act is not the only way in which a general restriction of access can be removed or relaxed. Paragraph 7(3) of Schedule 2 to the CROW Act enables regulations to be made for a relevant authority to remove or relax a general restriction with the consent of an owner, either indefinitely or during a specified period. Although no regulations were made for open access land under paragraph 7(3) of Schedule 2 we have issued guidance for landowners on procedures for removing or relaxing general restrictions and also guidance for relevant authorities on giving a direction under paragraph 7(1) of Schedule 2. The guidance is available at <http://archive.defra.gov.uk/rural/countryside/crow/restrict.htm>.**

## 5. Conclusion

5.1 The Access to the Countryside (Appeals against Works Notices) (England) Regulations 2011; the Access to the Countryside (Exclusions and Restrictions) (Amendment) (England) Regulations 2011 and the Access to the Countryside (Dedication of Land) (Amendment) (England) Regulations 2011 have been drafted in accordance with the conclusions set out in this document. These Regulations will come into force on 1 October 2011.

5.2 We will look to revise any existing guidance on appeals against works notices, exclusions or restrictions of access and dedication to reflect the changes brought into force by these regulations.

# Annex A

## Consultation questions

1. Do you have any views on the proposed notice periods for appeals?
2. Do you have any views on the proposals on appeals to be determined by way of a hearing?
3. Do you have any views on the proposals on appeals to be determined by way of a pre-inquiry and/or inquiry?
4. Do you have any views on the proposals for site inspections or changes of procedure?
5. Do you have any views on the proposals for changes to the existing regulations on exclusions or restrictions of access in regulation SI 2003 No. 2713 as they will apply to coastal access land?
6. Do you have any views on the proposal for site inspections?
7. Do you have any views on the proposals for amendments to the existing regulations on dedication of land in regulation SI 2003 No. 2004 as they will apply to coastal access land?

## List of respondents

### Land Managers and Representative Organisations

Country Land and Business Association

National Farmers Union

### Local Access Forums

Cornwall Countryside Access Forum

Devon Countryside Access Forum

Dorset Local Access Forum

New Forest Access Forum

### National Park Authorities

Exmoor National Park Authority

Lake District National Park Authority

New Forest National Park Authority

### Other Organisations

British Association for Shooting and Conservation

National Grid

### Recreation Organisations

British Mountaineering Council

Ramblers Association

### Wildlife Organisations

RSPB