

# Keep Ireland Open



*Keep Ireland Open is dedicated to the preservation of access to our heritage of open mountains and countryside*

Web site: [www.keepirelandopen.org](http://www.keepirelandopen.org) Email: [info@keepirelandopen.org](mailto:info@keepirelandopen.org)

We are e-mailing this submission to the MSP to ensure you have it before the deadline, midday Friday 14 December.

The paper original, along with a file of supporting documents, has been sent to you by priority post today.

You might kindly acknowledge arrival of the latter by e-mail to:



Thank you.

Michael Murphy.  
11 December 2018.

# Keep Ireland Open



*Keep Ireland Open is dedicated to the preservation of access to our heritage of open mountains and countryside*

Web site: [www.keepirelandopen.org](http://www.keepirelandopen.org) Email: [info@keepirelandopen.org](mailto:info@keepirelandopen.org)

11 December 2018.

MSP Submissions,  
Marine Spatial Planning Section,  
Dept. of Housing, Planning and Local Government,  
Newtown Road,  
Wexford,

## **Submission for consideration – Draft Marine Spatial Plan.**

Dear Sirs,

Keep Ireland Open is an environmental organisation that campaigns for the protection and maintenance of traditional access to our common outdoor heritage. We are also working towards the influencing of government to pass legislation that will protect and guarantee the future existence of the many existing tracks and pathways to and along the coastal edge of Ireland.

In the context of the MSP in formulation, this mission is very relevant, and will be argued hereunder.

### **1. Statement of core element of our submission.**

This may be simply stated as follows:

**THAT THE DRAFT MSP CONTAIN A STRONG RECOMMENDATION THAT GOVERNMENT SHOULD ENACT LEGISLATION THAT WILL CONFER LEGAL STATUS AS RIGHTS OF WAY, THROUGH AS SIMPLE A PROCESS AS POSSIBLE, ON EXISTING, ESTABLISHED AND HABITUALLY USED PATHS AND WAYS THAT GIVE ACCESS TO AND ALONG THE COASTAL EDGE OF IRELAND. ALSO, THERE SHOULD BE A STRONG STATEMENT OF THE NATURAL RIGHT OF**

## **ALL CITIZENS TO THE ENJOYMENT WITHOUT IMPEDIMENT OF THIS ELEMENT OF THEIR OUTDOOR NATURAL HERITAGE.**

We respectfully argue and make the case for this below. It received initial expression by us in our contribution dated 5 May 2016 to the first round of submissions.

### **2. OBJECTIVES OF MSPF.**

In his introduction to the Baseline Report, Minister Damien English points to the need for “.....balancing conflict resolution.....and balancing.....economic and social elements of the marine in a sustainable fashion.” We see the marine as including that part of land, foreshore and beach immediately adjacent to the sea, and management of it being balanced between this emerging MSPF and terrestrial National Spatial Strategy already in force (23.2 of Baseline Report). In line with the Minister’s stated concern, Section 24.4 makes it clear that the MSP Directive’s *minimum requirements* (our italics) oblige Member States to pursue economic, social and environmental objectives. (24.4).

### **3. ECONOMIC AND SOCIAL OBJECTIVES.**

In the context of coastal access, we strongly argue that economic objectives means provision of tourist-friendly access.

Social objectives must inevitably focus on our own citizens and their right to enjoy without hindrance the coast and its features – paths, tracks, cliff and headland, as well as beaches.

The achievement of both these objectives will require access legislation to be put in place for the first time. Several Private Members’ Bills over recent years aimed at making a start in addressing this have been ignored because of localist and farm organization pressure. This moribundity has to be brought to an end.

### **4. LEGISLATION ENJOYED IN NEARBY JURISDICTIONS.**

The following are the main enactments that give security of access to the citizens of England/Wales, and of Scotland. All deal with the right of enjoyment by the public of access to the outdoors. All paths proven as publicly used are protected by law. They deserve careful scrutiny with a view to recommending that closely similar legislation be enacted here. As things stand, there is nothing of the sort whatever in Ireland. There is not a single piece of legislation here with “access” in its title, far less purporting to address it.

The UK legislations to which we refer includes:

- a) The Countryside and Rights of Way Act 2000 (England and Wales).
- b) The Land Reform (Scotland) Act 2003 (as amd. 2016).
- c) Access and Rights of Way Act 2009 (England and Wales).

We also draw to your attention the Natural England website. This government facility informs the public on many matters pertaining to their enjoyment of the outdoors, including right of access. Its purpose is refreshingly clear - ".....helping to protect England's nature and landscape for people to enjoy."

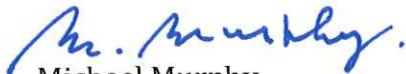
#### **5. RECOMMENDATIONS.**

We are pleased that the concerns expressed in our 2016 submission regarding access have found their way into Section 20, *Tourism*, of the Baseline Report. Indeed, the need for this is implicit in the Failte Ireland submission in an unrelated planning case (Doc.3 in the enclosed file of supporting documents). We are disappointed, however, that no mention of this is made in the following and very relevant Section 21, *Sport and Recreation*. The need for access to our outermost land borders for recreational activity is obvious.

We will be grateful if, for the above reasons you will write a stronger statement into the Draft that calls for access legislation as discussed above.

The Appendix to this letter refers you to a mere cross-section of access difficulties. The enclosed file of documents gives some detail on these, including letters from complainants. We feel they speak for themselves. Such cases continue to arise because of the absence of protecting legislation in Ireland.

Yours sincerely,



Michael Murphy,  
Hon. Secretary, Western Branch, KEEP IRELAND OPEN.

Roger Garland,  
Chairman.

(i)

**APPENDIX**

**Documents.**

1. Initial submission (2016) towards NMPF Baseline Document (pub. 2018).
2. Ministerial announcement on publication, and future intent.
3. Failte Ireland (Mary Black) re, *inter al.*, access to coastline.
4. Closure of Pilgrim Track, Benbulbin, on WAW. Case now with An Bord Pleanala (ABP). A WAW disappointment right in the Yeats Country.
5. Ombudsman (Annual Report, 1999) on Uggool Beach, Co. Mayo. A particular scandal. Despite Ombudsman's instruction, nothing was done by Mayo County Council to restore access to this stunning mile-long public beach, now closed off since 1989. Tourists attracted by your publicity now can only access the beach by paying – the only such case in Ireland appropriated by a private individual. Another Wild Atlantic Way (WAW) disappointment. See "The Lost Valley" website.
6. Fenit Island, Tralee, Co. Kerry, reputed birthplace of St. Brendan the Navigator. Perimeter pathway blocked, famed shore angling denied; multiple physical and legal threats. Doc. is the complaint by UK shore anglers. This group has never come back, but the named complainant is available for interview should you wish. Also, sample photos of industrial-style fencing. Perpetrator to be in court again in Feb. 2019 on foot of ABP decision initiated by our organisation along with Save Fenit Island Action Alliance. At present, another WAW disappointment for visitors.
7. South West Coast Path in Devon and Cornwall. All of this pathway is legally protected, like the many thousands of public tracks and paths in UK. Note £300M benefit to the local economy as per the study by Univ. of Exeter. That was 2004 – we understand it has gone up substantially since then.. By comparison, how stands the WAW?
8. See Dail Q and A. Local Authorities are mandated to identify established paths and tracks for Right of Way designation. They are, however, failing to do this. We need Failte Ireland to join us in pressing that they get on with this job.
9. North Mayo cliff walk. Complaint by UK-based former visitor. A potentially fabulous walk. Sadly, another WAW disappointment for adventurous souls you have attracted here.

(ii)

10. Pollet Great Arch, Fanad, Co. Donegal, on W shore of Lough Swilly. A stunning sea-arch rock formation (see photo), much visited since early 19thC. The 800m walking path to the shoreline blocked by US-based inheritor landowners and notices posted. Despite signage to it erected by DCC and still in place, visitors are continually turned away. Case now with An Bord Pleanala on foot of referral by local Great Arch Action Committee. What should be one of the jewels to be seen in the NW, this is a major Wild Atlantic Way disappointment.

11. Lough Leane, Fossa, Killarney. Pedestrian track to lake shore blocked by adjoining landowner. Decision of unauthorized Development by An Bord Pleanala. Now in the courts. Another WAW disappointment.

#### FINAL COMMENTS

There are many more cases we could mention, e.g., access denial problems at Malin Head, Horn Head (Donegal), Benweiskin and Glencar (Sligo), Brackloon Wood, Westport and Killary (Mayo). However, we hope you will agree the above is more than sufficient to show that something is very wrong and that a start needs to be made towards fixing it.

Failte Ireland radio ads for the Wild Atlantic Way speak of "freedom", so the suggestion is that outdoor freedom to access the beauties they extol is there as a given. We regret that in fact, in too many places along the WAW, the reality is different.

Lastly, it is not fair nor equitable that concerned local groups, who worry that their own freedoms and their own local economies are being adversely affected by arbitrary actions of the sort described, should be left on their own to defend our universal natural heritage, a heritage which Failte Ireland in fact is marketing.

Neither should environmental organisations like ours, who must work through grossly outdated access legislation, be left to do the work that planning authorities and Failte Ireland and other NGOs should be concerned with also.

We ask only that you help by including a call for access protection legislation in the Draft Marine Spatial Plan document. We will be happy to consult with you on the form such legislation should take, if you so wish.