Dear Sirs,

The Committee and members of KEEP IRELAND OPEN are very appreciative of the opportunity to make this submission on the scope of what should be taken into account in the formation of the new CSP that will operate in the 5-year period commencing 2023.

KEEP IRELAND OPEN (KIO) is a voluntary environmental organisation that works to preserve the many traditional, often very old, tracks and paths in the countryside and, particularly, to upland and mountain areas as well as along riverbanks, lake-shores, archaeological sites - in short, all elements of our common outdoor heritage. We seek these as of right, a right that is in harmony and coexistence with well-run and sympathetic agricultural exploitation of the same land. However, such balance is far from being the case in Ireland, where no legislation exists that reflects the public good, and gives a meaningful stake in the natural environment.

It has never been more true than in this present time of pandemic than that a healthy nation, made so by exercise in an outdoor environment in which there is no bar to reasonable access by the public, is better able to withstand general trauma and shock when it comes.

General Principle: What must be at the heart of the new CAP.

PUBLIC GOOD for PUBLIC MONEY.

We feel, and regret, that at least over the last 25 years or so agricultural policies, as generally structured under CAP, is out of joint with this. It is not the whole story, of course - national conservative agrarian attitudes here (not least those of landowners and farmers), have a lot to do with it also along with defective or non-existent national legislation, as already mentioned.

We hope, therefore, that what may be termed a new *Principle of People,* all of our people, are affected in their lives by the CAP. The enjoyment of their native land must not be hampered by a stand-alone, farmer-only CAP; that countryside, not least the fast-disappearing wild places, are there for the benefit of people as well as farmers; and that people who come there for mental and physical sustenance, or attracted there by tourism promotion, are not disadvantaged by action of CAP (an example of this is the ubiquity now of professionally erected barbed wire sheep fencing, often many kilometres in length and impenetrable, which is substantially grant-aided by the EU under the TAMS (Targeted Agricultural Modernisation Scheme), itself embedded somewhere within the CAP.

The framers of the reconfigured CAP for 2023 - 2027 will, we hope, keep two truths to the forefront in the Rules based upon the draft Regulation.

Firstly, EU financial support that will underpin the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) in accordance with the strategic plans to be drawn up by member states is ultimately paid out of the taxes levied on *al[* citizens of the EU. We all, therefore, have a vital interest in how this money is spent, and in exactly what environmental benefit will accrue to us. The most fundamental of these is the legal right of enjoyment of, including walking in, the countryside which we subsidise. In Ireland at least, there has

been no perceptible payback in the form this organisation seeks: the recognition, which has got to be pushed from EU level on the Irish government (because the latter is not listening to us nor to other environmental bodies), that there is a dire need for legislation here. The legislative vacuum is clearly set out in the following article. This appeared in the Winter edition, 2013, of the Journal of the Irish Planning Institute, and is by Dr. Louise Burns. Dr. Burns is now works in the School of Architecture, Planning and Environmental Policy at University College Dublin.

https://mail.google.com/mail/u/0/#search/Burns+access+to+the+countryside/FMfcgxmZVXtjTtXZlGrwnbPVhNLcqjNq?projector=1&messagePartId=0.1

That was in 2013. Nothing has changed in the intervening years. Farmers - for some reason, mainly in the West of Ireland - are, increasingly, banning walkers, and shutting down many of our traditional and historical old paths and tracks. No sanction for this is ever exercised against perpetrators, and farmers continue to be paid EU money regardless of such "Keep Out" actions.

Secondly, the people element, and the common good, has not been discernible in the present and earlier versions of the CAP. In dealing with the matter of funding we have touched upon this above. Payments from the EU into Ireland for agriculture, rural development and environment must be made conditional upon relevant and appropriate domestic legislation being enacted. This legislation, as well as conferring right to defined access and giving protection to existing and traditional paths and tracks, must be designed so as to make it clear that programmes, funded under CAP, in their implementation will not be oppressive against and injurious to either the private citizen or the natural environment. We have come to the point where the Rule must require that the Irish government must produce proofs to the Commission that all citizens, and not just farmers, can properly benefit from the outcomes derived from spending in rural areas. Within Ireland, the only possible way that will define rights and obligations that will harmonise with the objectives of the CAP Strategic Plan is through legislation. If such were brought into existence, the Irish government would know what to do and where it is going. Instead, at present, it will always come down on the side of farmers and landowners in matters of closure of access, blocked traditional paths, shutting off of beaches, riverbanks and lakeshores, interference with commonages, and impenetrable fencing of previously open upland.
The last one of these provides an example of how EU funding can become oppressive in its operation. For a considerable time now, and particularly in the West of Ireland, long runs of new sheep fencing are being (we believe wrongly) approved. This fencing is heavily subsidised by the EU under the TAMS scheme within the CAP. As EU money is involved, the EU, of course, requires the fencing to be built to a high standard but has left it to the Irish Department of Agriculture to lay down what this standard should be, The standard has been worked out for the Department by the National Standards Authority of Ireland (NSAI). When that body last year invited submissions towards a revised standard, our organisation (KIO) asked for stiles at intervals along the wire fences so as to allow walkers to pass across them. This was declined by NSAI as being outside its function. NSAI is correct: the EU should have anticipated such an unintended consequence, and seen to it that fencing, where necessary (much of it is not, being just a convenience for the close confining of sheep to facilitate off-farm employment) should be humanised by being capable of being passed through. Here it is clear how the furnishing of EU funding without EU oversight has, in its application, been having an oppressive effect, and the eyesore that constitutes proliferation of such fencing is oppressive as well.
For your information, here is the response of the NSAI to our query about whether our submissions towards the new Standard IS 436 for EU-funded TAMS sheep fencing had been considered:

https://mail.google.com/mail/u/0/?tab=rm&ogbl#search/kieran.cox%40nsai.ie/FMfcgxwLswHJJmLwbwrKBWjxCkgSzMxL

Before we proceed to conclude with some invited comments for the attention of RSM Ireland, we would like you to note the instructions of the Ombudsman on the poor performance of Mayo County Council in the matter of the illegal closure of access to the magnificent public beach at Uggool, Co. Mayo. The access track was closed to use by the public as long ago as 1989. The Council did nothing about it despite many complaints by the public. When the dubious behaviour of the Council regarding any redress was brought to his office, the Ombudsman investigated the case. He considered it serious enough to feature in his Annual Report for 1999. You will see that the Ombudsman was highly critical of the Council, and instructed MCC to take immediate steps to reopen access to the beach for the public:
https://www.ombudsman.ie/publications/annual-reports/Ombudsman-Annual-Report-1999.pdf
Despite this, nothing was done, the Ombudsman's wishes were dishonoured, and the beach remains inaccessible to the public to this day. The farmer is using the beach as his stock in trade in a commercial enterprise ("The Lost Valley", q.v.).
Apart from its own lamentable tale, what is relevant to this submission is that, through all the 32 years since the beach was illegally appropriated, the perpetrator continued to receive the full range of EU-financed grants, subsidies supports, REPS and Single Farm Payments under the various programmes and schemes in the forms in which they existed over these years. If there had been a sanction, under EU CAP Rules, to the effect that these payments would be stopped due to non-compliance with the law and the fact that EU money, in practice, was enabling such an abuse. It would have concentrated the mind of the perpetrator and probably would have led to the restoration of access to the public as required by the Ombudsman.
What was further to be deplored was the financial aid given to the start-up of the commercial operation now using the closed-off beach, its hinterland and adjacent peninsula as its stock in trade. This grant aid, given without condition as to the reopening of the beach to the public, was provided by the South West Mayo Development Company (SWMDC). We understand that funding for the operations of the SWMDC originates in substantial part from the EU also, under a scheme supporting rural development.
Here we can see, in all components of this most notorious (but not unique - there are many more like it) case, how EU money is being subverted and used oppressively to the disadvantage of ordinary people. There should, and must, be controls which are exercised at first hand by the Commission in respect of the use of money which comes out of the pockets of the taxpayers of all the member states.

To conclude, we briefly take up the invitation to contribute in the public consultation process that addresses te detail of the Report which RSM Ireland is undertaking to determine the scope and level of detail of the information to be included in the environmental report. We are pleased that there is encouragement for further participation by stakeholders such as ourselves, and by the general public.

Here are our responses to the 4 questions on page 2, and we hope they will be of assistance to RSM Ireland.

* 1. We ask for a scrutiny of all plans and programmes that fund farming operations in the round; how these affect the ordinary public in their right to enjoy the land they pay for; the effect, as described above, of heavy, subsidised fencing such as that funded under TAMS on the environment; whether such ubiquitous fencing is necessary at all,

seeing how other sheep-rearing countries can exist without it, being most likely to be more concerned about the state of their environments than Irish authorities handling EU funds.

* 2. There is need for RSM to inform itself on access legislation that exists in other member states. These give legal rights to the public to access the natural environment, and they also protect the tracks, paths and minor roads from interference and attempts at extinguishment. Before Brexit, and since, the UK legislations were and are a model to be commended for Ireland. We commend to you the Countryside and Rights of Way Act, 2000 (England/Wales) and the Land Reform (Scotland) Act, 2003 (Scotland). In these jurisdictions, close harmony exists between walkers and landowners to the benefit of everybody, not least the local economies. Payback for supports in the form of keeping open and maintaining accesses is expected and delivered. As has been shown above (ref. Dr. Louise Burns), nothing of the sort exists here.

* 3. We are now at the point in Ireland where the EU must strongly advise Ireland that it needs to draw up and enact a comprehensive access legislation that recognises, at last, a right of sharing of the countryside. If this were in force, any future plans for a modern CAP can be designed around it. The situation at present is chaotic. Without proper definition of who a CAP is for, and a consideration of whether the environment is to be protected for animals or for people, any CAP will continue to be just a vehicle for delivery of the people's money through our undirected and unquestioning Department of Agriculture to a favoured small minority of the population. As it has been applied in Ireland, everybody else will continue to be excluded. This is a core question, and we commend it for consideration by RSM Ireland.

* 4. RSM's report should recommend that the EU, through the Commission, must recommend that the Irish govenment, in order to achieve a more comprehensive and socially cohesive CAP for Ireland, should draw up and enact a Sharing of Access to the Countryside Act that will mirror the legislation of our departed friends in the UK, or alternatively, best practice in member states such as those in Scandinavia. We say, yet again and finally, that no fair and proper CAP can in future be designed without this.
In the meantime, the Commission must ensure that our Department of Agriculture is no longer allowed to hand out EU money under REPS and other schemes without getting something back for country. Such return must be measurable, represent real benefit for the environment, such as keeping pathways clear and in good condition, and letting people use them without hindrance. In short, the report that is to inform the CSP must enshrine the principle of "Public Good for Public Money".

Finally, can you assure us that the full text of this submission will be made available to the relevant section of the Commission in Brussels?. On this point, I will appreciate a reply as soon as possible.

Sincerely,

[redacted],
[redacted]

[redacted],
[redacted] KEEP IRELAND OPEN.