

Body: Cabinet

Date: 10th December 2014

Subject: Internal Drainage Boards

Report Of: Henry Branson, Senior Head of Infrastructure

Ward(s) All

Purpose To consider the options appraisal regarding a new Internal Drainage Board (IDB) for Pevensey Levels, following the proposed Environment Agency dissolution of existing East Sussex IDD.

Decision Type: Key decision

Recommendation: That Cabinet ;

- a) approves Option 3: formation of a new IDB to include the Pevensey Levels, and authorises officers to commence planning work with key partners.
- b) Delegated authority to be given to the Senior Head of Infrastructure in consultation with the Leader of the Council to take all necessary steps to contribute to the setting up of a new Board.

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1.0 Introduction

1.1 Historically, the Environment Agency (EA) has acted as the Internal Drainage Board (IDB) for a number of Internal Drainage Districts (IDDs) in the South East. In 2011, the Chief Executive of the EA confirmed their intention to dissolve internally administered IDD's due to the view that arrangements for drainage districts should have a greater degree of local accountability.

1.2 There are three EA-administered IDD's in East Sussex: Pevensey Levels IDD, Ouse IDD and Cuckmere IDD. Part of Eastbourne sits within the Pevensey Levels IDD. There are 15,486 residential properties within Pevensey Levels IDD, and under current IDD management the majority are at a 1:200 or less risk of flooding (from the main river). 700 of these properties in the Langney area are at significant risk of surface water flooding.

There are 533 businesses within Pevensey Levels IDD, the majority are at 1:200 or less risk of flooding (from main river) under the current IDD. Whilst IDBs are not responsible for main rivers (the EA retains management of these), IDBs pay annual

precepts to the EA as a contribution to work on main rivers from which the IDD(s) benefits. For example, in the 2013/14 fiscal year, the East Sussex IDB paid the EA £109,370 for maintenance of main rivers.

- 1.3 The EA have asked the East Sussex Local Authorities about their views to dissolve the IDD(s) and the options for the future management of these drainage areas. The options under consideration are:

Option	Description	Additional Detail
Option 1	No Local Authority consensus as to what drainage arrangement should be put in place	Likely that Defra imposes IDB for Pevensey IDD
Option 2	No Objection to IDB Dissolution; No Replacement IDB	Drainage areas revert back to land-owner control; alternatively, recommend community-led water-level management.
Option 3	New IDB	New, independent Board to take over drainage area(s).

2.0 Internal Drainage Boards

- 2.1 An Internal Drainage Board is an independent local public authority that manages water levels within IDD(s). Much of their work involves the maintenance of rivers, weirs, sluices, culverts, embankments, drainage channels, outfalls and pumping stations, facilitating drainage of new developments and advising on new planning applications. They have permissive powers with the IDD(s) to undertake such works as well as a statutory duty in regard to the environment and recreation when exercising their powers. They have a specific duty to further the conservation and enhancement of all designated environmental sites within their districts such as Sites of Special Scientific Interest (SSSIs) and RAMSAR sites (internationally protected wetland sites).
- 2.2 There are currently 120 IDBs in England covering 1.2 million hectares (9.7% of England's total land area). Defra is responsible for IDBs who work closely with the following: the EA, Lead Local Flood Authorities (LLFAs; ESCC is the LLFA for our area), and with LAs in regard to planning issues.

3.0 Options Appraisal

- 3.1 An East Sussex IDD Steering Group with members from local authorities, the EA and stakeholders, has been meeting regularly to gather information and discuss the issues regarding the EA's proposal to dissolve their responsibility of the East Sussex IDD. A small officer working group led by officers from Eastbourne Borough Council and Wealden District Council has been meeting to prepare an Options Appraisal. This has identified the known costs, opportunities, and risks for each of the 3 options in paragraph 1.3 above. A risk assessment was then undertaken based on the information available. The options appraisal is attached at Appendix 1.
- 3.2 The conclusions from the options appraisal are set out in the table below.

Options ranked in order of preference	Option
Preferred Option	Option 3, New IDB: New, independent Board to take over drainage area(s).
Second preference	Option 1, No Consensus: Defra imposes IDB (Pevensey).
Third preference	Option 2, No objection to dissolution, no replacement IDB: Drainage areas revert back to land-owner control; alternatively, recommend community-led water-level management.

The above preferences were arrived at on the basis of a number of risk factors, which fall under the following categories:

- Financial Risks
- Political Risks
- Flood Risks
- Environmental Risks

Option 3 is identified as having the lowest risk, which is to form a new IDB. It is worth noting that East Sussex County Council are supportive of this option.

4.0 Risks

4.1 Overall risks:

The Pevensey Levels IDD offers numerous benefits to the drainage district, including the following, which would be compromised in the event of no IDB:

- Biodiversity £11M p.a. – Protection of internationally and nationally important designated sites;
- Transport £3M p.a. – Flood prevention to 13km of mainline railway, 4 railway stations, and 19 km of road including the A259;
- Food production £1.5M p.a. – Flood protection to 236 ha of arable land and at least 1754 ha of grazing land;
- Recreation £1M p.a.- Approximate annual income of Cooden Beach golf club.

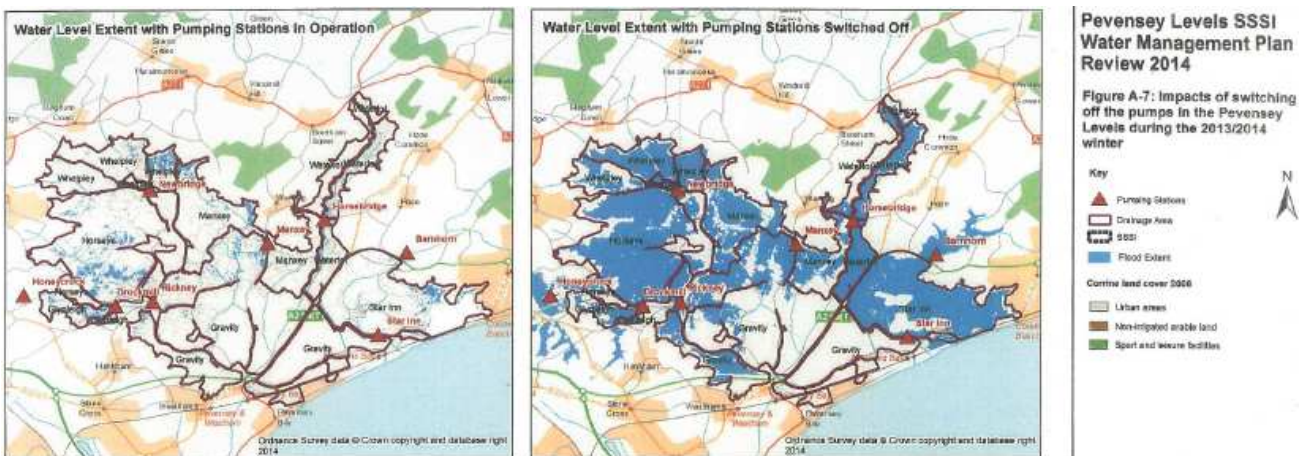
4.2 Risks with Direct Impact on Eastbourne:

- 9km of ordinary watercourses (OWC) in Eastbourne are currently maintained by the IDD, this maintenance would be lost, including that to East Langney Sewer.
- Loss of funding for maintenance of 23 kms of main river in Eastbourne (£110k p.a. for Pevensey Levels, ~£18k p.a. in Eastbourne).
 - Possible impact on flood risk mitigation-focused maintenance on the following Eastbourne main river watercourses: Langney Haven, Brickfield Ditch, Percival Road Sewer, Priory Road Sewer,

Crumbles Sewer, Highfield Sewer, Horsey Sewer, Lottbridge Sewer, Shinewater Sewer, Springfield Farm Ditch, Willingdon & West Langney Sewer, and Willingdon Sewer.

- Increased public anxiety and scrutiny in the event of flooding; and increased reputational risk if no IDB.
- Increased accountability if no IDB because EBC as local authority has permissive powers.
- Population in and around Pevensey Levels may be affected by increased occurrence of road closures, which may compromise reliable access to/from Eastbourne and have significant economic impacts:
 - The 1.6kms of A259 between the junction with the B2095 and Pevensey would increase in flood risk from 1:75 to 1:50.
 - Increased risk of flooding to 13 kms of mainline railway and 4 railway stations.

4.3 If there is no IDB and maintenance operations cease, then the land may become wetter, leading to a scenario as shown below (the figure on the left shows the extent of flooding with an IDB, the figure on the right without):



The critical assets of the Pevensey IDD are as follows:

Area (ha)			Watercourses (km)			Assets (pumps and sluices, qty); (watercourses, km)		
Urban	Rural	Total	Main River	OWC ¹	Total	Pump Stations	Sluices ²	Watercourses ³
653	6060	6713	141	305.5	446.55	8	202	105.5

4.4 Pevensey has a Water Level Management Plan (WLMP), which has recently undergone a thorough review by Natural England (NE) and the EA. The WLMP emphasizes the importance for managed water levels year-round, which is best achieved through an IDB, in order to protect farmers, land owners, businesses, and infrastructure as mentioned in the table above.

4.5 Two-thirds of the Levels are pumped, and, as shown above, there are ~450kms of ditches with 200 owner/occupiers. Last winter, it did not go under water because of

¹ Ordinary Watercourse, includes those currently maintained and those currently not maintained by existing IDB

² Includes other water control structures

³ Ordinary IDD Watercourses maintained by existing IDB; opportunity exists to expand maintenance to other watercourses in the IDD under a new IDB

the coordinated management that an IDB provides.

- 4.6 9 kms of the maintained Pevensey Levels IDD ordinary watercourses are in Eastbourne Borough, with 87 kms being in Wealden District. A further breakdown of the Pevensey Levels IDD profile follows below:

Table 1 Profile of the Pevensey Levels IDD

		Wealden District	Rother District	Hastings Borough	Eastbourne Borough	IDD total
Area	Urban	155ha	20ha	57ha	421ha	653ha
	Rural	4364ha	973ha	74ha	649ha	6060ha
	Total	4519ha	993ha	131ha	1070ha	6713ha
Watercourses	Main River	76kms	37kms	5kms	23kms	141kms
	IDD (OWC maintained by IDB)	87kms	9kms	0.5kms	9kms	105.5
	OWC (not maintained by IDD)	135kms	41kms	6kms	18kms	200kms
	Total	298kms	87kms	11.5kms	50kms	446.5kms

Due to the UK and international environmental designations of the Pevensey Levels, it is likely that Defra may enforce creation of a new replacement Board if the LAs are unable to reach a decision.

5.0 Timetable

- 5.1 The proposed EA timescale is as follows;

Action	Deadline
Local Authorities confirm decision in regard to preferred option	January 2015
Discussion with other Stakeholders and DEFRA about likely option	February – May 2015
Draft Order submit to DEFRA	End of June 2015
Dissolution of IDB by Secretary State for the Environment	March 2016
Alternative Arrangements in place	April 2016

If the local authorities agree to a new IDB, there is the possibility of pursuing a Public Sector Cooperative Agreement, whereby the EA would continue management until new arrangements are settled. This would provide flexibility in fleshing out the details of a replacement Board, and would ease the transition post-dissolution to ensure that Pevensey Levels remains under good management.

6.0 Resource implications

6.1 Financial

The expenses of an independent IDB are predominantly funded by the local beneficiaries of the water level management work they provide. The Land Drainage Act 1991 determines that the expenses of an IDB shall be met by:

- Drainage rates collected from agricultural land and buildings within the Internal Drainage District;
- Special Levies issued on District and Unitary Authorities within the Internal Drainage District;
- Contributions from the EA

The Special Levy is collected for the IDB by LAs through the District Councils' budget setting process. The LAs then pay this levy to the IDB. The 2014-15 LA contributions from the EA Annual Report for Pevensey

Levels IDD are as follows:

Pevensey IDD	Special Levy (£)
Eastbourne Borough Council	£193,186
Hastings Borough Council	£9,779
Rother District Council	£3,584
Wealden District Council	£38,435
Total	£244,984

The above special levy monies have historically been reimbursed by the Department of Communities and Local Government (DCLG) through the Revenue Support Grant (RSG). This funding is to be superseded by the Settlement Funding Assessment (SFA), which is guaranteed to continue until 2021. ESCC, EBC, and WDC are pursuing the future uncertainty of this government funding with the Secretary of State.

If there is no IDB, the Council would lose the ability to collect the special levy. In addition, DCLG would adjust the IDB Levy amount of the Relative Needs Formula which will mean a fall in RSG and baseline funding. Using the 2014-15 fiscal year as an example, had there been no IDB, the Council would have lost the ability to collect the special levy of £193,186, and also would have lost the match funding of the same amount. As the special levy is passed on to the IDB, the loss for the Council would have been £193,186 in 2014-15.

This issue has been specifically raised in letters to DCLG from Wealden District Council and from Eastbourne Borough Council, in early October. A reply is still awaited.

In order to reduce loss of monies to EBC, it is recommended to enter into the Pevensey Levels IDB at the same contribution level, or at such a level that represents the amount of funding received via the RSG as amended by the grant settlements, with the condition that contribution rates will be revaluated for 2021, when the RSG/SFA may change. Prior to that, a more proportional contribution level could be pursued.

As mentioned in section 1.2, another financial risk of not having an IDB would be reduced funding of main river maintenance from which the drainage district(s) benefits. In the case of Pevensey Levels, no IDB would result in an annual precept loss of approximately £110,000 paid from the IDB to the EA for maintenance of main rivers.

6.2 **Staffing** – the new IDB would be an independent public body, and as such, would be responsible for staff to provide administrative support, and direct arrangements for staff to undertake maintenance.

7.0 Other Implications, Environmental, Community Safety, Youth, Anti-poverty, Equality and Fairness analysis

7.1 **Environmental** – without an IDB to manage water levels, there is an increased risk of flooding and damage to biodiversity, transport, food production and recreational activities.

7.2 **Equality and fairness** – if a new IDB is created, there will be no changes to the service delivered to Eastbourne residents. Without an IDB, some residents may be affected disproportionately, and this would require further analysis.

8.0 Summary

8.1 The EA have asked the East Sussex Local Authorities about their views to dissolve the IDD's and the options for the future management of these drainage areas. This report explores the risks involved and summarises the options appraisal, with a recommendation that there should be a new IDB to include the Pevensey Levels.

Sue Oliver
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The Background Papers used in compiling this report were as follows:

Options Appraisal prepared by the East Sussex IDB Steering Committee Joint-Working Group October 2013.

To inspect or obtain copies of background papers please refer to the contact officer listed above.