

Report to: Lead Cabinet Member for Transport and Environment

Date of meeting: 14 September 2015

By: Director of Communities, Economy and Transport

Title: Environment Agency proposals for the Ouse, Cuckmere and Pevensy Levels Internal Drainage Districts

Purpose: To determine the County Council's view on the Environment Agency's proposals for the three Internal Drainage Districts and agree a formal response.

RECOMMENDATIONS: The Lead Member is recommended to:

- (1) Support the Environment Agency's proposals to dissolve the Cuckmere and Pevensy Levels Internal Drainage Districts and re-establish the Cuckmere and Pevensy Levels Districts with one Internal Drainage Board;**
 - (2) Accept the dissolution of the Ouse Internal Drainage District in principle subject to further discussions with Lewes District Council on flood risk management priorities within the area, and, further negotiations with the Environment Agency and others on funding for the County Council's additional burden of Ordinary Watercourse Consenting and enforcement in the Ouse District; and**
 - (3) Authorise the Director of Communities, Economy and Transport (in consultation with Lead Member for Transport and Environment) to:**
 - a. Agree the final response to the Environment Agency on this matter; and**
 - b. Agree the County Council's representation on the proposed Pevensy and Cuckmere Water Level Management Board.**
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1 Background Information

1.1. Three Internal Drainage Districts (IDDs) administered by the Environment Agency (EA) exist in East Sussex. The boundaries of the Ouse, Cuckmere, and Pevensy Levels IDD are shown in Appendix 1. The EA's Management Board acts as the internal drainage board (IDB) for the three IDDs. In terms of local accountability and transparency, this is not an ideal situation.

1.2. The purpose of an IDB is to manage water levels and local drainage in areas of drainage need. An IDB is funded by a special levy paid by the districts and boroughs, and rates charged to landowners. The County Council's interest as a Lead Local Flood Authority is derived from the potential drainage impact any proposals may have. The County Council does have a separate responsibility for Ordinary Watercourse Consenting (OWC) and enforcement which is undertaken outside an IDD. As a land owner within the current IDDs, the County Council pays on average £600 a year in rates to the EA.

1.3. In July 2012 the EA commenced initial discussions with the local authorities in East Sussex on its intention to withdraw from its role in managing the IDDs through its Management Board. The EA has proposed three options for future management:

Option 1: Dissolve the existing IDDs and re-establish the IDDs with a new independent IDB.

Option 2: Dissolve the existing IDDs and revert to usual roles and responsibilities (including the County Council responsibility for OWC and enforcement).

Option 3: Dissolve the existing IDDs, with communities and other interested parties establishing alternative non statutory arrangements.

1.4. Appendix 2 provides background information on the Options and the consultation process. Given the tight reporting deadlines, this Report has been drafted in anticipation of the advertisements, rather than in response to them.

2 Supporting Information

2.1. The principal contributors to the IDD in East Sussex and their approximate contributions are Eastbourne Borough Council (EBC) - £215,000, Wealden District Council (WDC) - £57,000, and, Lewes District Council (LDC) - £131,000. Rother District Council, Hastings Borough Council and Mid Sussex District Council contribute to a much smaller degree. Details of contributions and expenditure are included at Appendix 3. EBC, WDC and LDC have established their formal positions on the proposals. EBC and WDC are not opposed to the retention of all three Districts. LDC will not instigate or lead on the establishment of an IDD for the River Ouse or join with the wider East Sussex IDD.

2.2. The expectation is that there will be two sets of statutory advertisements (consultations) on the future of the IDDs. One advertisement will be for the dissolution of the River Ouse IDD (with no replacement), and the second for the dissolution and replacement of both the Cuckmere and the Pevensey Levels IDDs, managed independently by a new board, covering both IDDs.

2.3. We anticipate the publication of the “advertisements” to take place in September and a subsequent publication of revised proposals later in the autumn. Appendix 4 provides a broader consideration of the implications of the EA’s proposals.

Cuckmere and Pevensey

2.4. Although not a continuation of current arrangements, the EA’s proposal ensures that a body is in place to manage water levels and drainage within these sensitive areas. This provides the co-ordination necessary to manage the biodiversity value of the Pevensey Levels, and an additional resource to assist with land drainage matters within those low lying parts of Eastbourne Borough and Southern Wealden. Such a proposal should be supported.

2.5. The EA has recently offered the County Council a seat (as a rate payer) on the new Board. At the time of writing this report, the EA has yet to confirm the commitment required of such a role, but the idea can be supported in principle.

Ouse

2.6. With the decision of LDC’s Cabinet not to support the establishment of a new IDB, there is a risk that the County Council, as the Lead Local Flood Authority, would be passed an additional burden in the form of Ordinary Watercourse Consenting and enforcement within the IDD, but outside the main river, which had previously been undertaken by the EA. A review of the EA’s OWC records for the Ouse IDD reveals that only three consents have been issued since 2007. Beyond this limited evidence, the EA has not provided data which accurately records the extent of work associated with OWC and enforcement which the County Council would have to take on with the dissolution of the Ouse IDD.

2.7. In its resolution not to support the one board three district model, LDC’s Cabinet committed the savings it would make (as result of not paying an IDB levy) to mitigating flood and coastal erosion risk more widely within the Lewes District. This is a welcome decision, and although the extent and nature of Lewes District’s flood risk management work programme has yet to be fully developed, this presents an opportunity for greater collaborative working with the District Council on flood risk issues.

2.8. The approach should therefore be to accept the dissolution of the Ouse IDD but have further discussions with LDC on flood risk management priorities in the area, and further negotiations with the EA and others on funding the additional burden to ESCC to undertake OWC and enforcement.

3 Conclusion and Reasons for Recommendations

3.1 The dissolution of the Cuckmere and Pevensey Levels IDD and replacement with one Board can be supported. The dissolution of the Ouse IDD could be accepted in principle, subject to further discussions with LDC on flood risk management priorities in the area, and further negotiations with the EA and others on funding for the County Council's additional burden on OWC and enforcement in the Ouse IDD outside the main river. Given the County Council's interest in the delivery of flood risk management services, the EA's invitation for County Council to take a seat on the new Internal Drainage Board for Cuckmere and Pevensey Levels should be accepted in principle, subject to further investigations.

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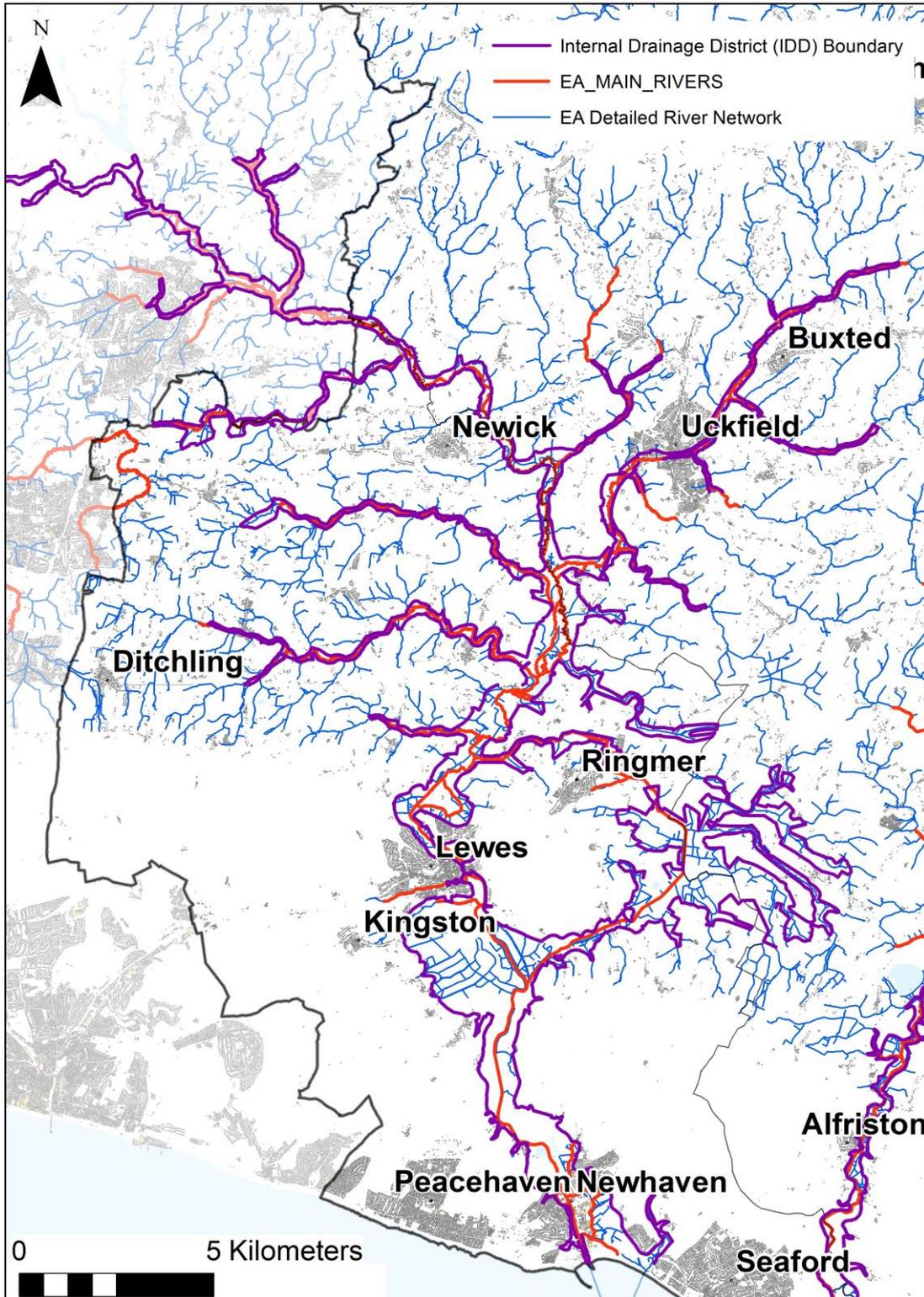
LOCAL MEMBERS

Cllrs Belsey, Bennett, Bentley, Blanch, Butler, Carstairs, Charlton, Clark, Chris Dowling, Claire Dowling, Earl, Elkin, Ensor, Field, Forward, Galley, Keeley, O'Keeffe, Phillips, Pursglove, Rodohan, Sheppard, Daniel Shing, Stephen Shing, Shuttleworth, St. Pierre, Tutt and Wallis.

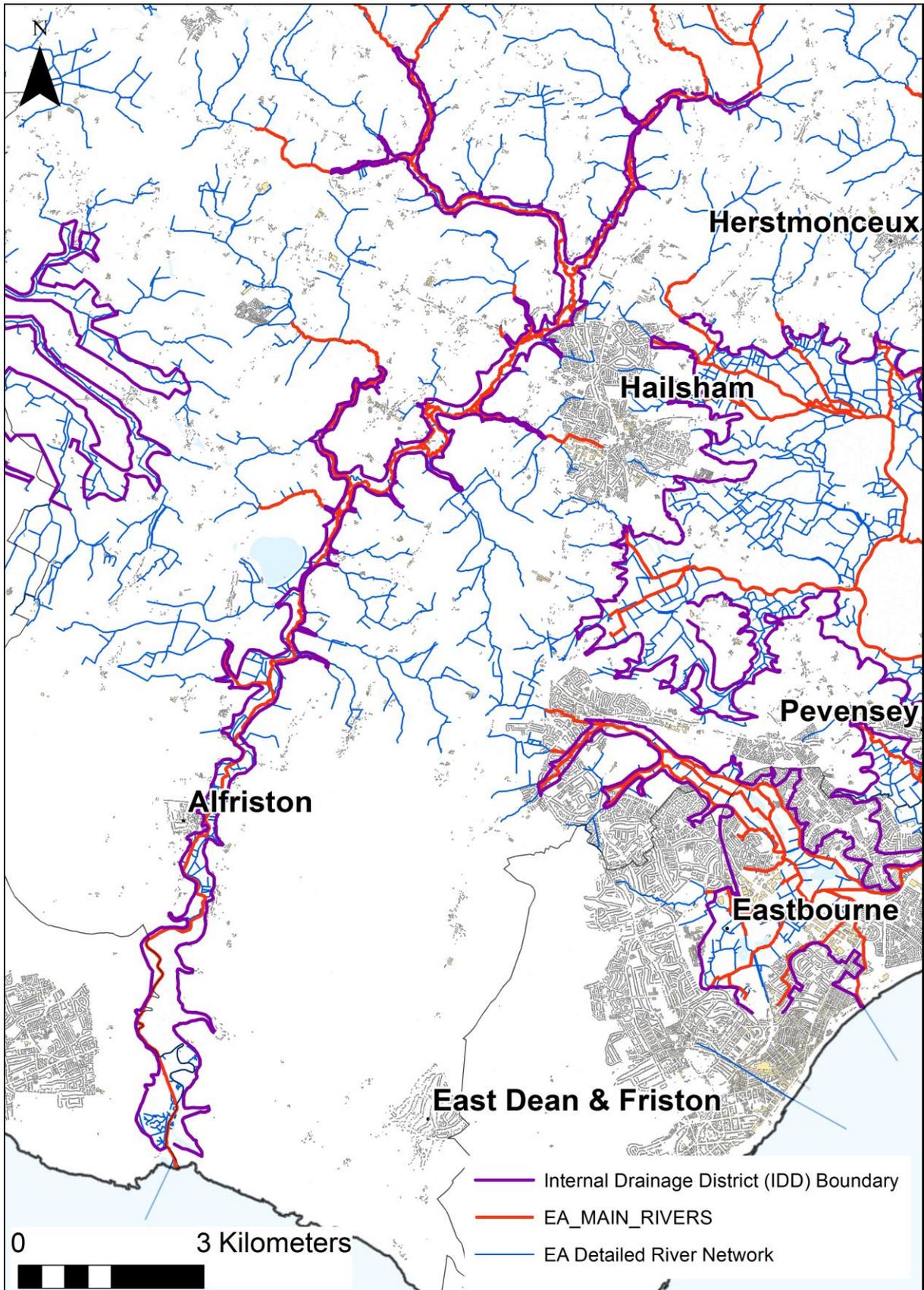
BACKGROUND DOCUMENTS

Environment Agency published proposals for the East Sussex Internal Drainage Districts

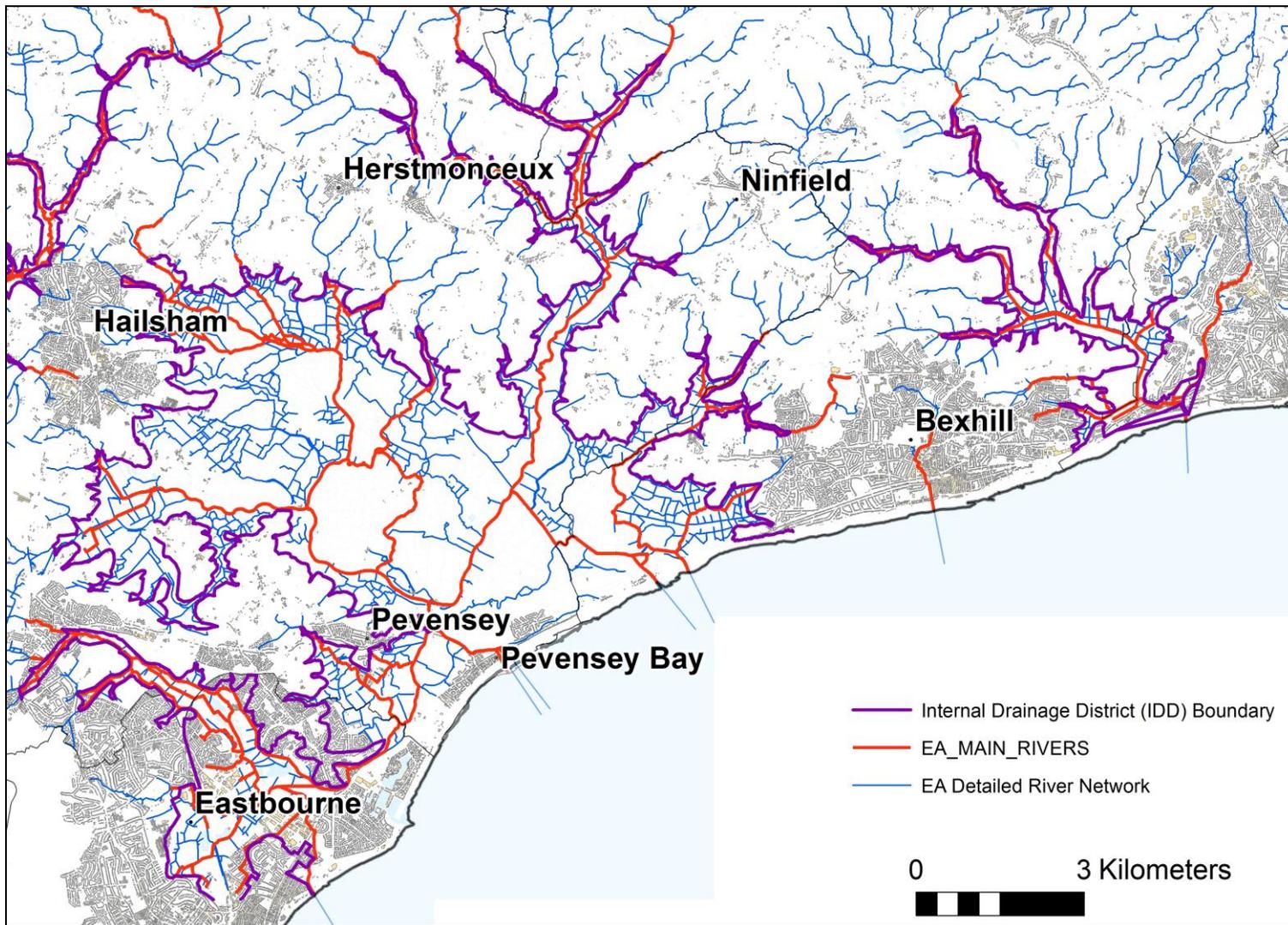
APPENDIX 1 – THE INTERNAL DRAINAGE DISTRICTS



1a: The Ouse



1b: The Cuckmere



1c: The Pevensey Levels (and the Combe Haven)



1d: The Ouse IDD at Newhaven

APPENDIX 2 – BACKGROUND TO THE CURRENT PROPOSALS

1 Background to the current proposals

1.1 In July 2012 the EA commenced initial discussions with the East Sussex local authorities on its intention to withdraw from its role in managing the IDD's. The main objective of the EA in this process was to establish a consensus of opinion on a preferred option amongst the local authorities. This option would then be recommended to central government.

1.2 The proposed three options for the management of the three IDD's were:

Option 1: Communities or other suitable organisations set-up a new independent IDB to take over some or all of the interests of the existing IDD's.

Option 2: Dissolve the existing IDD's so that normal roles and responsibilities exist for which:

- Riparian landowners are responsible for the maintenance of the watercourse and structures (including pumping stations);
- District and borough councils have permissive powers to undertake maintenance; and
- The lead local flood authority (LLFA) is responsible for enforcement and consenting on ordinary watercourses.

Option 3: Dissolve the existing IDD's, with communities and other interested parties working in partnership to establish alternative arrangements (outside a resourced IDD structure).

1.3 Irrespective of the outcome of this process the EA will remove itself from the management of the internal drainage districts. To request its continued involvement is not an option.

1.4 The EA established a working group comprised of local authority officers and key stakeholders such as the National Farmers' Union and the Countryside Landowners Association to recommend a way forward to the local authorities. The working group concluded that the "three district one board" model was one which the Districts and Boroughs could endorse (i.e. option 1).

1.5 The IDB would be an independent corporate body, overseen by a "Board" comprising 49% land owner representation and 51% local authority representation (this would not include East Sussex County Council).

1.6 The principal contributors to the IDD's in East Sussex are Eastbourne Borough (EBC) and Wealden (WDC) and Lewes District (LDC) Councils. All three have their formal positions with LDC not supporting the establishment of a replacement District or Board.

1.7 Consequently, the expectation is that there will be two sets of statutory advertisements (consultations) on the future of the IDD's. One advertisement will be for the dissolution of the River Ouse IDD (with no replacement). The second will be for the dissolution and replacement of both the Cuckmere and the Pevensey Levels IDD's based upon the current boundaries, managed independently by a new Board, covering both IDD's.

1.8 It is proposed that the replacement IDD will be named the Pevensey and Cuckmere Water Level Management District.

2 Consultation stages and timetable

2.1 The EA has indicated that the "advertisement" procedure will involve a two stage process.

Stage 1- The EA formally submits a draft scheme to Defra, setting out its intention to dissolve the IDD(s) and providing details (if any) of future management.

Stage 2 – Defra considers comments submitted as part of stage 1 and reissues the scheme for a second and final round for comment.

2.2 There is no confirmed timetable, but we anticipate the first “advertisement” to be in September 2015 and the second following later in the autumn of 2015.

Pevensey Levels Internal Drainage Board – Combined Owners/Occupiers Account

Actual 2013/14 £	Forecast Outturn 2014/15 £		Budget Estimate 2015-16 £
		EXPENDITURE	
109,370	109,370	Contributions to Flood Defence (the Agency)	109,370
119,884	130,000	Maintenance Works	160,000
0	0	Transfer costs	20,000
600	700	Audit Fees	800
14,951	11,500	Support Costs	21,563
15,883	15,500	Operational Costs	20,000
2,958	2,958	Cost of Collection	2,958
263,646	270,028	TOTAL EXPENDITURE	334,691
		INCOME	
0	0	Capital Grant	
20,000	60,000	Contribution from the Agency	60,000
20,000	60,000	TOTAL INCOME	60,000
		NET AMOUNT TO BE MET FROM DRAINAGE RATES AND LEVY	274,691
		DRAINAGE RATE	
2.85	2.85		3.19
£	£		£
9,413	9,516	Income from Drainage Rates on Agricultural Land	11,127
244,984	244,984	Levy on District Councils	273,564
		Amount (Added to)/Taken From Balances	(10,000)
254,397	254,500		274,691
1,266	45,738	Balance Carried Forward	55,738

1,266 Actual balance as at 31/3/14

Actual 2013/14 £	Estimate 2014/15 £	Levy Apportionments	Estimate 2015-16 £
38,435	38,435	Wealden D.C.	42,919
9,779	9,779	Hastings B.C.	10,919
3,584	3,584	Rother D.C.	4,002
193,186	193,186	Eastbourne D.C.	215,724
244,984	244,984		273,564

River Ouse Internal Drainage Board – Combined Owners/Occupiers Account

Actual 2013/14 £	Forecast Outturn 2014/15 £		Budget Estimate 2015-16 £
		EXPENDITURE	
58,353	58,353	Contributions to Flood Defence (the Agency)	58,353
103,892	75,000	Maintenance Works	90,000
0	0	Transfer costs	10,000
400	500	Audit Fee	600
10,711	9,200	Support Costs	11,500
11,749	11,500	Operational Costs	12,500
3,849	3,849	Cost of Collection	3,849
188,954	158,402	TOTAL EXPENDITURE	186,802
		INCOME	
17,880	20,000	Contribution from the Agency	20,000
17,880	20,000	TOTAL INCOME	20,000
		NET AMOUNT TO BE MET FROM DRAINAGE RATES AND LEVY	
157,078	173,302		166,802
		DRAINAGE RATE	
3.84	3.83	Area A	4.09
2.56	2.55	Area B	2.72
£	£		£
10,203	11,623	Income from Drainage Rates on Agricultural Land	13,203
144,004	144,005	Levy on District Councils	153,599
0	0	Amount (Added to)/Taken From Balances	0
154,207	155,628		166,802
3,583	20,809	Balance Carried Forward	20,809

3,583 Actual balance as at 31/3/14

Actual 2013/14 £	Estimate 2014/15 £	Levy Apportionments	Estimate 2015-16 £
11,640	11,640	Mid Sussex D.C.	12,416
8,835	8,834	Wealden D.C.	9,423
123,530	123,530	Lewes D.C.	131,761
144,005	144,005		153,599

River Cuckmere Internal Drainage Board – Combined Owners/Occupiers Account

Actual 2013/14 £	Forecast Outturn 2014/15 £		Budget Estimate 2015-16 £
		EXPENDITURE	
1,578	1,578	Contributions to Flood Defence (the Agency)	1,578
2,396	10,000	Maintenance Works	10,000
0	0	Transfer costs	2,000
0	100	Audit Fees	200
343	850	Support Costs	1,594
370	1,000	Operational Costs	1,000
1,219	1,219	Cost of Collection	1,219
5,906	14,747	TOTAL EXPENDITURE	17,591
		INCOME	
3,000	3,000	Contribution from the Agency	3,000
3,000	3,000	TOTAL INCOME	3,000
		NET AMOUNT TO BE MET FROM DRAINAGE RATES AND LEVY	
2,906	12,782		14,591
		DRAINAGE RATE	
12.81	12.81		16.69
£	£		£
4,515	4,353	Income from Drainage Rates on Agricultural Land	6,121
3,814	3,814	Levy on District Councils	4,969
0	0	Amount (Added to)/Taken From Balances	3,500
8,329	8,167		14,591
13,104	9,524	Balance Carried Forward	6,024

13,104 Actual balance as at 31/3/14

Actual 2013/14 £	Estimate 2014/15 £	Levy Apportionments	Estimate 2015-16 £
3,814	3,814	Wealden D.C.	4,969
3,814	3,814		4,969

APPENDIX 4 – IMPLICATIONS OF THE EA’S PROPOSALS

1 The implications of alternative IDD management arrangements

Opportunities and Risks

1.1 In developing a formal response, consideration should be given to the opportunities and associated risks presented by IDD and their effect on the statutory Lead Local Flood Authority role. Opportunities focus on the additional local resources a new IDB could bring to bear to inform the planning system, manage local flood risk issues, and liaise with local communities and stakeholders on land drainage matters.

1.2 Internal Drainage Boards are designated Risk Management Authorities under the Flood and Water Management Act, and as such can prove to be helpful sources of expertise and local knowledge when dealing with local flood risk issues.

1.3 It is important to note that the realisation of opportunities depends upon the priorities of the Board and that in any event action will not be immediate as the IDB will need to get up to speed.

1.4 The costs and associated risks with these anticipated proposals relate to not having an IDB resource and are simply the reverse of the benefits. Having no IDB at all may generate pressures on the Flood Risk Management Team in relation to OWC and enforcement.

1.5 The financial costs to ESCC are the payments it makes as a land owning ratepayer (which currently stand at £600), and, the increased burden that would exist in staff costs etc in undertaking OWC and enforcement in the Ouse IDD outside the main river if no replacement IDB is set up.

Cuckmere and Pevensy

1.6 The risks associated with the proposal to re-establish the Pevensy and Cuckmere Districts with one IDB are limited and these lie with the Districts and Boroughs which will (with the assistance of the EA) set up the new Board. Although not a continuation of current arrangements, it does ensure that a body is in place to manage water levels and drainage within the two districts. This provides the necessary co-ordination to manage the biodiversity value of the Pevensy levels, and a resource to assist with land drainage matters within those low lying parts of Eastbourne Borough and Southern Wealden.

1.7 It should be noted that both districts are within catchments where a great deal of development will take place over the coming decades. It will be in the interest of the new Drainage Board to be fully engaged in the planning process and provide advice to the Local Planning Authorities. This has the potential to complement the County Council's role as a statutory consultee to the planning system on sustainable drainage and local flood risk matters

Ouse

1.8 LDC's established view is that it will not support a proposal which would include the Ouse District. Having reviewed the EA's evidence on the costs and risks associated with Ouse IDD it was considered that the costs of contributing to an IDB outweighed the benefits.

1.9 As it would be the majority contributor (the others being Wealden and Mid Sussex district councils) to the Ouse District there is not the necessary support to secure a three district IDB.

1.10 At its meeting of 19 March 2015, Lewes District Council's Cabinet agreed that the savings the Council would make from the dissolution of the Ouse District (some £131 000) would be focussed on managing flood risk within Lewes District, including the creation of a fund to assist with unlocking central funding for larger flood and coastal erosion mitigation projects.

1.11 LDC recognises that there remains a need to manage flood risk (beyond the statutory responsibilities of ESCC as LLFA) within Lewes District as a whole; not just within the limited boundaries of the Internal Drainage District.

1.12 Whilst LDC will review this position in 2020/21, in consultation with key stakeholders (including the County Council), when the government will “reset” the local authority allocation for contributions to Internal Drainage Districts, it still represents a significant development in managing flood risk in this part of East Sussex. It recognises that the role of the Lead Local Flood Authority is constrained by statute and that District Councils also have a major role to play in the management of local flood risk (alongside their role in managing coastal erosion).

1.13 Nevertheless, this district wide focus on flood risk has yet to be defined and preliminary discussions have commenced between ESCC and LDC officers on this might entail, following the dissolution of the IDB in 2016/2017.

1.14 The primary concern for ESCC has been the impact on its role in Ordinary Watercourse Consenting and enforcement. With the dissolution of the Ouse IDD the EA will no longer undertake this role outside main river which, in turn, will revert to ESCC.

1.15 The key flood risk facing the Ouse District as a whole is a combination of fluvial and coastal; in other words those sources of flooding which are the responsibility of the EA to manage. This flood risk principally, but not exclusively, affects the towns of Newhaven, Lewes and Uckfield. Allied to this is the fact that the Ouse District is tightly drawn around the main river network, which means that the length of ordinary watercourse compared to main river is much less than one would expect in an IDB.

1.16 One part of the District which is of concern, however, is Newhaven where the drainage of the eastern and low lying side of the town represents a risk that ESCC may have to manage. Ordinary Watercourse Consenting in the Ouse IDD as a whole has been low, but as we have discovered since this role was passed to ESCC for the areas outside IDBs, the EA's records do not necessarily represent a detailed account of the resources required for the task.

1.17 Given such uncertainties over the true extent of workloads we can expect from the dissolution of the Ouse IDD, it is important that both ESCC and, the EA and others come to an agreement prior to the dissolution on how the OWC and enforcement will be funded.