

## HIGHLAND COUNCIL

**Committee:** City of Inverness Area Committee

**Date:** 20 August 2019

**Report Title:** Inverness City Arts – River Ness Flood Alleviation Scheme  
Public Art Project - Progress Report

**Report By:** Chief Executive

### 1. Purpose/Executive Summary

- 1.1 The decision to progress a programme of Public Art was agreed by the City of Inverness Area Committee (CIAC) in October 2012. CIAC also agreed to set up the Inverness City Arts Working Group (ICArts), which has been charged with overseeing project delivery. This report summarises the work of ICArts to date, confirming the delivery of elements of the project programme and summarising the position on the remainder.
- 1.2 The report confirms that the governance arrangements agreed to by the CIAC for overseeing a programme of public art through the ICArts working group have been followed. Detailed updates are provided in relation to the financial, contractual, planning, consultation and impact assessments for each of the individual project elements. In relation to proposed implications for changes to the programme, the report sets out the considerable financial and reputational implications to the Council, should any decision be taken to cancel elements or the whole of the remaining programme.

### 2. Recommendations

Members are asked to:

- Note that the enhanced governance arrangements that were agreed to by CIAC for the delivery of the arts programme have been adhered to throughout
- Note the update on Inverness City Arts Projects
- Note the next steps for the ICArts Working Group set out at section 11
- Note the considerable financial and reputational implications of any decision not to progress any or all of the remaining arts programme set out at section 3 and 10
- Agree to continue the River Arts Programme under the governance of the ICArts Working Group and as agreed by the CIAC
- Note that any decision not to progress the remaining arts programme will require to be remitted to a meeting of the full Council to determine how any additional costs are met.

### 3. Implications

3.1 The following outlines the resource, legal, risk, community and climate change implications of the current programme. This also includes the potential implications of any decision to stop or change the current programme, in order to inform Members in any decision making. Full details are set out in section 11.

#### 3.2 Resource

3.2.1 As outlined in section 7, total spend to date on the ICArts programme has been £526,406. This includes spend of £209,173 on completed projects and £317,233 on uncompleted projects. Financial details of the project programme can be found in section 7 and in appendices 2A and 2B.

Funding of the expenditure has come from the following sources:

- Creative Scotland £135,146
- ICGF £280,750
- Highland Council D&I £6,150
- Highlands and Islands Enterprise £10,374

The balance of £93,986 between expenditure and income has not yet been claimed from funders. For cashflow purposes this has been funded from Highland Council's general fund.

3.2.2 Should a decision be taken not to progress any or all of the remaining arts projects, there will be implications for the spend to date, any funds already committed and the potential of being able to utilise funding to support any alternative project. Full details of these implications are set out in section 10. In summary, should the programme not progress:

- There will have been a significant amount of public money already spent on projects which will not be completed (£317,233 uncompleted project spend and a share of £84,128 development costs).
- Of the spend to date there is **£93,986** which has been spent but not yet reclaimed from funders and which the Council will be responsible for settling.
- There will be an additional cost to the Council of a minimum of **£31,874** which includes £10,374 which HIE would seek to reclaim on the basis the project has not been completed and £21,500 which is likely to be incurred as a result of artist contract termination costs. This does not include any additional sums which Creative Scotland may wish to reclaim although indications suggest they are not minded to do so.

3.2.3 The financial consequences of a decision taken by the CIAC to cancel all or any element

of the remaining River Arts programme, would be required to be considered as a starred item at Council. Council would then determine whether the residual £93,986 and any additional expenditure is met from core Council budgets or from the Inverness Common Good fund.

- 3.2.4 Other resource implications - there will be ongoing maintenance requirements for the art installations already in place and any progressed which will require to be funded from the Inverness Common Good Fund.

### **3.3 Risk**

- 3.3.1 Risks to the commissioning and timely delivery of the Project Programme are managed by the Project Team and scrutinised through regular up-date reports to the ICArts Working Group, with the Minutes being approved at the next available CIAC. A risk register is in place which is regularly reviewed at Project Management meetings.

- 3.3.2 A decision which results in termination of the ICArts programme will damage the Council's reputation. Over the course of the six-year duration of the project the Council will have incurred a significant amount of expenditure and will not have delivered the principal element of the programme.

- 3.3.3 Meetings of the ICArts Working Group normally last around 2 hours. Members should note that any decision to change the governance arrangements which result in the River Arts Programme reporting to the CIAC must be aware of the additional time this will add to meetings of the CIAC to ensure effective scrutiny of the programme is undertaken.

### **3.4 Legal**

The project has complied with the legal duties of the Council in terms of procurement, planning and equalities legislation. Standard contracts are in place between the Council and all contractors associated with the various projects that form part of the Project Programme.

### **3.5 Community (Equality, Rural, Poverty, Island)**

The community have been pivotal to the design and development of the ICArts Project Programme from initial concept to individual project design. The purpose of the Programme is to actively enhance access to public art. Further details on the consultation and engagement undertaken as part of the River Arts Programme can be found at section 8. Screening for equality has been undertaken for each individual project. Details of assessments are provided in each project update which can be found in appendices 4-9.

### **3.6 Climate Change / Carbon Clever**

- 3.6.1 The flood alleviation works that the arts project is associated with, demonstrate the

Council's commitment to adapting to climate change and adverse weather events. The design of My Ness specifically has had safety measures built into the design to take account of potential flooding events.

- 3.6.2 As part of the planning permission for My Ness, a formal response was sought from the Flood Risk Management Team and from SEPA. These resulted in proposed conditions for the development which were included as part of the planning permission but no objections from the Flood Risk Management Team were received.

#### **4. Background and Context**

- 4.1 There has been a programme of public art in Inverness dating back to 2005, commissioned as part of the first phase of the then Streetscape programme. This programme ran until 2012 and its work was overseen through the CIAC and a partnership steering group comprising of officers, members and external representatives.
- 4.2 In 2009, an opportunity arose to develop a new programme of public art linked to the development of the Flood Alleviation Scheme for the City. The CIAC agreed to investigate the practicalities of developing a programme of art, through which came the concept of linking the community and the river and the principle of a viewing/place to bring people together, now known as the 'gathering place'. With the opportunity of funding through Creative Scotland towards such a programme of art, in October 2012 CIAC agreed to provide up to £250,000 match funding for programme delivery. The final years' funding of the existing Arts Programme of £30,750 was added to this budget. New governance arrangements were proposed as part of this new phase of public art, modelled on the existing framework for the Events and Festivals programme.

#### **5. Governance**

- 5.1 On 3 December 2012, CIAC agreed to recommend to Council that a public art working group be established, to be named Inverness City Arts Working Group (ICArts). CIAC also agreed a governance framework which would allow the CIAC to scrutinise the operation of the ICArts Working Group and relevant projects. The Working Group would be comprised of one member from each political group and the City Leader. The working group includes a representative from the main funder, Creative Scotland.
- 5.2 The remit of the CIAC would be to scrutinise the effectiveness of the new working group. This would include:
- Budgets;
  - Stakeholder Engagement;
  - Project Governance – this entailed the CIAC being satisfied that detailed proposals had gone through the agreed governance in respect of officer

management, stakeholder and Member engagement;

- The operation of the ICArts Working Group through the approval of ICArts Working Group Minutes; and
- Approval of an agreed Action Plan for the delivery of projects under the remit of the ICArts Working Group and to review it annually.

- 5.3 Minutes of meetings of the ICArts working group are presented to meetings of the CIAC for approval and subsequently as part of the CIAC minute to the Highland Council. Reports to the working group are available to individual CIAC Members at any time and any CIAC Member can attend meetings of the ICArts working group. Annual reports have been presented to the CIAC which provide project updates, including budget updates, and compliance with the Action Plan.<sup>1</sup> A schedule of minutes can be found at appendix 1 in the accompanying booklet. With the exception of the minute of May 2019, all minutes have been approved by the CIAC since July 2016 without objection.
- 5.4 The CIAC is ultimately responsible for decisions of the ICArts working group and can review the decisions of the working group at any time. This was demonstrated at the CIAC on 1 July 2016, when the decision was taken not to proceed with the Tilting Pier concept for the Gathering Place but to seek to pursue an alternative concept which was also in compliance with the original artist's brief. Members at that point re-affirmed their commitment to the overall programme.
- 5.5 A review of ICArts governance arrangements was undertaken by Internal Audit and reported in January 2016. This concluded that the governance arrangements for ICArts were satisfactory and provided a proper framework. This noted that the framework:
- Clarified the roles of officers (including responsibility for budget management and in accordance with Contract Standing Orders and Procurement policy);
  - Clarified the relationship with the City of Inverness Area Committee (CIAC);
  - Clarified the role of the CIAC in scrutiny and governance;
  - Improved budget monitoring; and
  - Approved an action plan.
- 5.6 Operationally, the Programme is sponsored by the Inverness City Area Manager and managed by the Principal Project Manager responsible for Common Good Fund Projects. An officer project team meets monthly to oversee the programme. This project team includes representation from Corporate Communications and Specialist Curatorial Support from HighLife Highland's Exhibitions Officer. The officer project

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<sup>1</sup> ICArts Annual Report 2018:

[https://www.highland.gov.uk/download/meetings/id/73711/item\\_12\\_inverness\\_city\\_arts\\_-\\_annual\\_report](https://www.highland.gov.uk/download/meetings/id/73711/item_12_inverness_city_arts_-_annual_report)

team reports directly to the ICArts Working Group. An example of the regular dashboard monitoring reports provided to the Working Group can be found at appendix 3.

## 6. The River Ness Arts Programme – Overview

6.1 The purpose of the River Ness Arts programme was, in conjunction with the flood scheme, to enhance the river frontage, making the flood wall more attractive to the community, linking the community and the river and particularly focused on how people view the river. The concept of the programme – linking people and the river – was developed following consultation with local people. The Flood Team’s public consultation events and stakeholder meetings shaped the vision for the initial vision for the project. This provided for the development of a bid to Creative Scotland seeking funding of £305,000 for a programme of public art. This funding bid was matched by £250,000 (plus the existing allocation for that year of £30,750) from the Inverness Common Good, agreed by the City Committee in October 2012 and further funding from the Council’s Development and infrastructure Service and from Highlands and Islands Enterprise created an overall funding package for the art programme.

6.2 Following the successful funding application, project briefs were prepared by the project team with a focus on meeting the overall objectives and the original concept drawn from the public consultation. There were 6 key strands:

- **My Ness (the Gathering Place)** – the principal concept of the entire art programme. The original tilting pier feature was replaced by the current project entitled ‘My Ness’ sited adjacent to the Fisherman’s Hut at Bught following the decision by the CIAC in 2016.
- **The Sculptural Destination** – a single feature at Friar’s Shott on the riverside, linking the river and its history with its role in the development of the City and Loch Ness. This project has been delivered and completed.
- **Rest Spaces** – a series of interventions along the river to provide locations for people to relax and enjoy the riverside. The revised programme budget contains one feature and installation is currently on hold.
- **The Children’s Water Feature** – designed to be an interactive opportunity to safely engage with the river. Located in the Ness Islands this was designed along with pupils from local primary schools. Building has not yet commenced.
- **River Connections** – a series of interventions along the riverside involving indentations on the flood wall made up of poetry, imagery, together with seating. This project has been delivered and completed.
- **The Trail** – this will act to link the various interventions and principal pieces and provide a route for people to follow to offer maximum enjoyment of the riverside. This is the final piece and work has not yet been scheduled.

6.3 To turn the proposals into reality CIAC agreed that a decision-making process was required which separated decisions about the art from decisions about how the projects

were delivered. To achieve this an Evaluation Panel (as described earlier) was established comprised of independent art professionals who would evaluate the proposals received from potential contractors (artists) who had been asked to make proposals in line with individual project briefs. The original Evaluation Panel was (as agreed by the ICArts Working Group) comprised:

- Professor Ken Neil MA (Hons) Deputy Director (Academic), Glasgow School of Art (recommended by former ICArts Chair, Cllr Ken Gowans) – Up to 2016
- Mark Lomax – Artist and Tutor, Inverness College, UHI (recommended by former ICArts Chair, Cllr Ken Gowans)
- Professor James Mooney (lead), who divides his time between Portgower and London. He holds Visiting Professorships in Art at Birmingham City University and Gray’s School of Art in Aberdeen and is a Fellow of the Royal College of Art.
- Professor Will Maclean – (born in Inverness) artist and retired Lecturer at Duncan of Jordanstone College of Art who replaced Professor Ken Neil in 2016

A letter from Professor Mooney as lead for the Panel on the process can be found at appendix 10. A letter from the artists can also be found at appendix 11.

6.4 Once selected, management of the contracts with these artists has been through the Council’s Project Design Team and scrutiny of the delivery through the ICArts working group.

**7. River Ness Arts Programme - Financial Overview**

7.1 As noted in section 4, the availability of funding from Creative Scotland was one of the key initial drivers of the ICArts Programme alongside the development of the Flood Alleviation Scheme. Alongside Creative Scotland funding and match funding from the Common Good, a further package of funding was secured to provide an overall capital budget on which to develop the project programme based around the concept of linking the river and community and with the principle of a ‘gathering place’. The funding partners are as follows:

Table 1

Funding Body	Purpose of Funding	Total Funding
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Creative Scotland	For project development and also for the Gathering Place – to create a space for the community and visitors to enjoy the environment of the river.	£0.305m
City of Inverness Common Good Fund – Agreed CIAC 8 October 2013	For a programme of activity including a trail, viewing station, seating projects, schools project & sculptural destination. Committee agreement noted meaningful community engagement.	£0.250m (+ £0.031m from existing art programme)
Highland Council – Cities Gateway Fund – Agreed Planning Environment & Development Committee August 2013	For the Gathering Place and final Trail project	£0.066m
Highland Council – additional allocation Development and Infrastructure Capital Programme	For the Gathering Place and final Trail project	£0.040m
Highlands and Islands Enterprise	For the Gathering Place and Trail project. Key deliverables include an art infrastructure project, permanent works, community engagement events	£0.066m
Total Funding		£0.758m

7.2 Appendix 2A provides publicly available details of the current budget. Clarification is also given on the allocation of financial resources from each of the funders, against each element noting conditions of grant. Appendix 2B provides a full breakdown of each project and associated spend as presented at each ICARTS Working Group. Due to commercial and personal confidentiality, this cannot be made publicly available and due care should be taken to ensure sensitive commercial or personal data is not disclosed.

7.3 To date, total spend is £526,406. Spend against each element of the project is outlined in table 2. This has delivered the Sculptural Destination, River Connections and the design and development work for the remaining projects up to the point of delivery.

7.4 Funding of the expenditure has come from the following sources:

- Creative Scotland £135,146
- ICGF £280,750
- Highland Council D&I £6,150
- Highlands and Islands Enterprise £10,374

The balance of £93,986 between expenditure and income has not yet been claimed from funders. For cashflow purposes this has been funded from Highland Council's general fund.



## 7.5

Table 2

Project	Project Budget (£)	Total Spent to Date (£)	Remaining Budget (£)	Funding Source
<b>Completed Projects</b>				
River Connections	60,000	59,895	105	Common Good Fund
Sculptural Destination	60,000	60,149	-149	Creative Scotland, Common Good Fund
Worker's Memorial	5,000	5,000	0	Common Good Fund
Development Cost	85,000	84,128	872	Overall project funding
<b>Ongoing Projects</b>				
Rest Spaces	40,000	40,646	-646	Creative Scotland , Common Good Fund
The Trail	25,000	3,500	21,500	HIE; D&I; Creative Scotland and Common Good Fund
Gathering Place	300,000	108,716	191,284	HIE; D&I; Creative Scotland; Common Good Fund
Children's Water Feature	40,000	12,902	27,098	Creative Scotland and Common Good Fund
Management Fees	120,900	146,081	-25,181	Overall project funding
Contingency	21,850	5,389	16,461	Overall project funding
<b>Total</b>	<b>757,750</b>	<b>526,406</b>	<b>231,344</b>	

7.6 Section 9 below provides detailed updates on each of the individual project including their status and financial commitments made to date. This also includes an update from funders and any implications should the projects not proceed.

## 8. Consultation and Engagement

8.1 The community have been pivotal to the design and development of the ICArts Project Programme from initial concept to individual project design. This has developed over the course of the programme from the early development phase in 2011/12 up until as recently as May 2018 to finalise the My Ness project.

8.2 The purpose of the Programme is to actively enhance access to public art. An

important part of the programme has been community engagement and access in order that the artworks that are developed take account of the ideas, needs and aspirations of river communities and users and a sense of pride and ownership is engendered. This was built into the Artists' Briefs and the timetable which included a period of research.

- 8.3 Early engagement with the public on the development of the arts programme started in 2011/12 as part of the Flood Team's public consultation events and stakeholder meetings and this shaped the vision and initial concept of the project. As the programme developed into individual project design, opportunities were provided to share information with the wider public and seek views from the public on the arts programme. CIAC Members were invited to these events. This phase of consultation and engagement was all led by the Artists.

Public consultation events:

- Trinity Hall - 2nd April 2015
- Eastgate Centre - 23 January 2016 (Exhibition and public consultation)
- Inverness Museum & Art Gallery (exhibition and media launch) - 19th January 2016
- Inverness Railway Station and Eastgate Centre 21/22 October 2017 – (My Ness launch, community consultation and drop-in session)

On line engagement:

- The artists created a webpage [www.myriverness.com](http://www.myriverness.com) for people to add their own stories and memories. The responses can be viewed online.

Public survey

- Launched in January 2016

Details of consultation and engagement on specific projects can be found in the detailed project updates in appendices 4-9.

- 8.4 As well as public consultation events, co-ordinated with the River Ness Flood Alleviation team for information sharing and public feedback, and Artist Talks for students, the general public, and CIAC members, the artists made contact and met with a number of individuals and community groups over the period of the development of the programme.

These included:

- Inverness College UHI
- Inverness City Heritage
- Architecture + Design

- |   |  |  |
|---|--|--|
|   | Trust  | Scotland   |
| <ul style="list-style-type: none"> <li>• The Access Panel</li> <li>• Merkinch Partnership (river community)</li> <li>• River Ness Angling Club.</li> <li>• Arts in Merkinch</li> <li>• Highland Print Studio</li> <li>• Ness District Fisheries Board</li> <li>• Inverness High School</li> </ul> | <ul style="list-style-type: none"> <li>• Community Councils Countryside Rangers</li> <li>• Creative Links Leader – HLH (link with schools)</li> <li>• District Trade Union Council</li> <li>• Inverness Cathedral</li> <li>• Inverness BID</li> <li>• The National Association of Fine Arts Societies</li> <li>• Culloden Academy</li> </ul> | <ul style="list-style-type: none"> <li>• LGBT – local group</li> <li>• Church representatives (12 churches around the river)</li> <li>• Ness and Beaully Fisheries Trust</li> <li>• Inverness Civic Trust</li> <li>• Minding Merkinch</li> <li>• Comunn Ghaidhlig Inbhir Nis</li> <li>• Countryside Rangers</li> </ul> |

There was also informal engagement with local riverside business and local riverside residents.

An ongoing relationship was established with the local access panel for advice as designs developed.

Specific stakeholder events with key groups were also held:

- Eden Court - 23<sup>rd</sup> January 2016
- Eden Court - 22<sup>nd</sup> June 2017

8.5 Engagement regarding the arts programme has been ongoing now over a number of years. It has had considerable media coverage over this period which has helped to raise the profile and share information about the programme. The programme has been shaped by this engagement. The decision to amend the Tilting pier element of the programme came as a result of public feedback to the proposal. Public concern regarding this element was raised from the presentation of the initial concept. In general, however, the art programme has been generally well received and the public feedback and positive media coverage demonstrates this.

8.6 It was not until February this year, 2019, that any concerns were raised regarding the replacement for the Tilting Pier, My Ness. This is despite considerable opportunities between the project launch in October 2017 and the decision by the ICARTS Working Group and subsequently the CIAC agreeing to progress the project in May 2018. The project was launched, and a community consultation event and drop-in session held, at Inverness Railway Station and Eastgate Centre on 21/22 October 2017. Following this engagement and the feedback received My Ness was launched at The Archive Centre on 24 May 2018. The media and key stakeholders, including Members and Community Councils, were invited to attend. Comments were largely positive in support of the proposals, which were reflected in the media coverage following the event. A further

statutory public consultation period was undertaken for the planning application between January and February 2019. Very few comments were received during this period and this is despite the publicity which surrounded the planning application.

- 8.7 The concerns highlighted by some members of the public earlier this year must be balanced and considered along with the positive feedback received for the proposals during the engagement periods and following the launch in 2018. Alongside this, consideration must also be given to the financial implications if a decision was taken at this late stage not to progress.

## **9. Individual Project Updates**

- 9.1 The following provides a short summary of each of the individual projects making up the ICArts programme. It specifically focuses on the purpose of the project and the involvement of the public in its development. It also provides an update on the position of each project at August 2019 and any proposed next steps.

Full details of each project, including the financial breakdown, any planning requirements and impact assessments, can be found at appendices 4-9.

### **9.2 My Ness – (the New Gathering Place) Sans Façon and OSA (appendix 4)**

- 9.2.1 My Ness is the centrepiece of River Ness Public Art Project. The purpose of My Ness is to create a structure to bring people together to a special place sited to provide a focal point and an overview of the River Ness. The design is based on the form of an amphitheatre and the circular form is picked up on the opposite bank thereby framing the river. The site is Long Isle Pool, near the Fishermen's Car Park.

- 9.2.2 The artists for the project were selected by the Evaluation Panel and selection was based on experience to date. The structure itself was designed and developed following public engagement. As outlined in section 8.6, My Ness was developed following public consultation drop-in sessions at Inverness Railway Station and Eastgate in October 2018. There was also opportunity for people to provide comments online [www.myriverness.com](http://www.myriverness.com).

#### **9.2.3 Update August 2019**

A planning application was submitted on the 20<sup>th</sup> December 2018 and was granted under delegated powers on 19<sup>th</sup> February 2019 after being advertised in January 2019. A tendering process for contractors to carry out the work has been completed. This contract is between the artists Sans Façon and the contractor. Negotiations between the artists and building contractors have been ongoing and are now complete. This has resulted in a number of proposed changes to the design and build to ensure that the structure is affordable. The proposed changes include:

- the thickness of the stone has been reduced from 40mm to 25mm
- the number of piles has been reduced from three to two

- the cantilever has been reduced in length by 1 metre
- the down stream end of the structure on the fisherman's hut side of the river has been reduced in length by 1 metre
- the small bench on the opposite bank has been reduced in length by 1 metre

Due to the nature of the design and build contract, a final design has not yet been concluded and further amendments and revisions will be made. This includes exploring widening the end of the cantilever to provide a wider turning circle for wheelchair access. The Working Group is yet to consider these proposed changes.

9.2.4 As a result of these proposed changes, advice is being sought from Planning as to whether these result in a material change which would require a further planning application.

9.2.5 Next steps for this project, subject to any decisions taken at the Special meeting of CIAC, is to seek approval from the ICARTS Working Group on whether to proceed with the revised plans.

### 9.3 **Sculptural Destination – Annie Cattrell (appendix 5)**

9.3.1 The original concept was for an iconic landmark to visit and interact with or to view from a distance. The artist has designed a work entitled 'Seer' based on the geology and mythology of the river which involves creating "Seeing Stones" between which people can stand to view the city. The 'stones' are modelled on the geology of each side of the Great Glen Fault and cast from resin infused with bronze powder which will glow when the sun shines on it.

9.3.2 Consultation on the development of this project was part of the overall engagement on the River Arts programme which has been outlined in section 8, with further detailed contained in each project appendix.

9.3.3 'Seer' was installed on 19<sup>th</sup> November 2018 at Friar's Shott. Details of this are provided at appendix 5. The siting of a plaque with the accompanying poem by Rab Wilson in English and Scots is to be arranged with the artist.

### 9.4 **Rest Spaces – Dress for the Weather (appendix 6)**

9.4.1 Relaxation areas for individuals or small groups who might informally gather along the river's edge. The first Rest Space is a small viewing platform entitled 'Explore' which is intended to project over the river. The original site intended for this piece was on Bank Street opposite the Mercure Hotel. This was by far the most popular of the designs put forward by the artists. The original intention was for a series of 5 rest spaces but due to budget restrictions, only one is affordable.

9.4.2 Consultation on the development of this project was part of the overall engagement on the River Arts programme which has been outlined in section 8, with further detailed

contained in each project appendix.

#### 9.4.3 *Update August 2019*

The artwork and foundation platform have been constructed however installation has been on hold whilst additional risk and safety assessments were considered. Since the original design was developed in 2014 new guidance for local government on water safety has come into force: Scotland's Drowning Prevention Strategy 2018-2026 and the Council is currently developing a water safety policy for the Highland Council area based upon this guidance.

9.4.4 Further assessments undertaken have identified that the proposed site would not be the best location for such a feature. This is due to the following considerations:

- Its proximity to several places of entertainment and the purpose of the design is to attract people to the waterside
- The fast flowing nature of the river would mean that the placement of life rings would likely be ineffective in the event that an individual entered the water
- Additional features would be recommended to the installation including, a gate which could be locked at high risk times, signage, monitored CCTV coverage and night time patrols.

9.4.5 On this basis, it is an officer recommendation that installation of the piece in the proposed location does not progress. Instead, alternative sites for the piece have been proposed including within the new park area at Torvean and between the two canal bridges as a viewing platform for the canal. The latter would retain the original concept of a connection with water but the piece would not overhang the canal and its location not present the risks outlined above.

9.4.6 Next steps are for the ICArts Working Group to formally consider the proposed new locations. If agreed, the artwork could be installed as part of the West Link Phase 2 programme.

### **9.5 River Connections – Mary Bourne (appendix 7)**

9.5.1 A series of interventions along the river, including seating areas and poetry set into paving stones and copes of the flood wall which refer to the natural history and other river stories.

9.5.2 Consultation on the development of this project was part of the overall engagement on the River Arts programme which has been outlined in section 8, with further detailed contained in each project appendix.

9.5.3 The project is complete.

### **9.6 Children's Water Feature – Bespoke Atelier (appendix 8)**

- 9.6.1 The purpose of this element of the programme is to engage young people and families with the river and the city. The Children's Riverside Water Feature will be an interactive artwork, relating to the River Ness, informed by and for young people.
- 9.6.2 This is an education project and has been developed involving four Inverness primary schools and UHI art degree students who have been using the project as a case study. A student from the Contemporary Art and Contextualised Practice course has been on an 80-hour placement on the project which is now completed.
- 9.6.3 Consultation on the development of this project was part of the overall engagement on the River Arts programme which has been outlined in section 8, with further detailed contained in each project appendix.
- 9.6.4 A planning application was submitted on 6<sup>th</sup> July 2018 and approval was received on 20<sup>th</sup> December 2018.
- 9.6.5 *Update August 2019*  
The schedule for installation is currently being planned, including works outwith the scope of the project (£5,000 was approved by The Inverness Common Good Fund for upgrading the paths in the Ness Islands.)
- 9.6.6 Appropriate risk and safety assessments of the project have now been completed. The documents were based on the 'Guidance for the Risk Assessment Procedure for Water Safety', the 'Water Safe Code', CDM Regulations 2015 and advice taken from the Highland Council D&I CDM Officer. Findings included:
- Potential risk of slipping or tripping due to part submersion of design and on raised stones – the need for a maintenance programme and appropriate signage
  - The need to access to water's edge be kept clear for access in emergencies – to be included in maintenance programme
  - That a life ring should be made available on site
  - Potential flooding risk to the area – whole Islands site closed off in the event of flooding
- 9.6.7 The next step for this project is for the ICARTS Working Group to consider the risk assessments undertaken and, on that basis, whether to agree to progress the work.

## **9.7 The Trail (appendix 9)**

- 9.7.1 The purpose of this project is to map the river to create a trail from the Ness Islands to the river mouth, including local stories, natural history, heritage and other practical knowledge accessed through a traditional paper map or digitally by mobile phone.
- 9.7.2 Consultation on the development of this project was part of the overall engagement on the River Arts programme which has been outlined in section 8, with further detailed

contained in each project appendix.

9.7.3 This will be the last project to be delivered as it will incorporate all the artworks. The scale of the Trail will be dependent on remaining budget. Discussions have taken place with other sign-posting initiatives in the city including the AR Trail.

9.7.4 *Update August 2019*

This is the final piece and work has not yet been scheduled.

## **10. Implications of Changes to the River Arts Programme**

10.1 Should a decision be taken not to progress any or all of the remaining arts projects, there will be implications for the spend to date, any funds already committed and the potential of being able to utilise funding to support any alternative project. To ensure that Members have a full understanding of the potential financial implications to the Council, the respective funders have been asked for and provided confirmation of their position.

10.2 Creative Scotland:

- Programme termination: if the programme were to be terminated, it is unlikely that Creative Scotland would seek to recoup payments already made, unless those payments were not used for the agreed purposes.
- My Ness terminated - If My Ness (Gathering Place) only was terminated, Creative Scotland have indicated that they would be unlikely to seek to recoup monies already spent but no further funding would be made available.
- My Ness replaced - Creative Scotland would not agree to support any further project to replace the current Gathering Place/My Ness element of the River Ness public art project. Therefore, their remaining funding of £170,454 would not be available.

Highlands and Islands Enterprise:

- Programme termination: if the programme was terminated, HIE have advised they would withdraw the offer of any further funding and seek to recover from the Highland Council the sums paid out to-date of £10,374.40 on the grounds that the project was not completed following a decision made by the Council not to do so. As noted above, a decision will be required by Council where any repayment costs are met i.e. Council budget or Inverness Common Good.
- My Ness terminated: HIE would withdraw the offer of any further funding and would review what had been achieved so far. It is possible that HIE might seek to recover from the Highland Council the sums paid out to-date of £10,374 on the grounds that the project was not completed.
- My Ness replaced: as above however would consider whether remaining funders were in place.



Highland Council: Development and Infrastructure Service

- £40,000 of Development and Infrastructure funding has been drawn down into the Common Good account. £6,150 has been spent to date. Depending upon the decisions taken to cancel any element or all of the remaining programme, this funding could be used to offset project expenditure however this would be a decision for the Highland Council. The Director of Development and Infrastructure has advised that in the event of any of the above decisions being reached, any decision to continue funding would be referred to the Environment Development and Infrastructure Committee.

10.3 Total Common Good funding of £280,750 has been spent. Should a decision be taken to terminate, the only completed projects would be Sculptural Destination, River Connections and Worker's Memorial.

10.4 In summary, the following sets out the potential additional resource implications for the Council should a decision be taken not to progress any or all of the current arts programme.

- Programme termination – no further funding would be made available from partners. The Council may have to meet any attempt from other funders to recoup monies paid to date and will be very unlikely to receive additional funding to meet costs already paid. HIE have already indicated they would seek to reclaim £10,374. Currently the Council has, for cashflow purposes, funded £93,986 of project spend and would be responsible for meeting these costs. An artist's termination fee of £21,500 is likely to be incurred should the project be terminated.

**Termination of the programme would therefore result in an additional cost to the Council of a minimum of £125,860.**

- My Ness termination and completion of remaining programme – Funders have indicated that they are unlikely to continue to support the remaining projects if My Ness is terminated. The funds needed to complete the other projects £64,413. A decision would be required where to source this funding from. The costs to the Council in this scenario would be as in the event of termination plus £64,413.

**My Ness termination would therefore result in an additional cost to the Council of a minimum of £190,273.**

- My Ness replacement – no further funding would be available from external partners. This would leave £33,850 from Development and Infrastructure and £66,000 from the City Gateways. Any decision to utilise this funding will have to

be referred back to EDI committee.

**Without the commitment from partners, it is unlikely that any replacement project would be viable. The financial cost to the Council would be as above, with a minimum additional cost of £190,273 to meet the costs of expenditure to date, artist termination costs and partner repayment costs.**

In all three scenarios, a decision would be required whether these costs are met by the Council's General Fund or the Inverness Common Good Fund.

#### 10.5 *Reputational Risk*

There is significant reputational risk to the Council should a decision be taken at this point not to proceed with the ICArts Programme. The Council has earned the confidence of Creative Scotland, HIE and international artists, all of whom are committed to the Project Programme. Partners continued to support the overall project and recommitted following the change in design agreed in 2016 for the My Ness proposal. However, as noted above in section 10.2 and in appendix 4, the respective funders have indicated that this would not be the case in 2019 should a decision be taken not to progress one element or the programme itself.

#### 10.6 *Legal*

In the event that a decision is taken not to pursue any element of the Project Programme it is open to the Council to offer contractual notice of one month to the respective contractor and to make payment of all pro rata sums falling due. In the event that the Council decides to abandon the My Ness Project, then the Council will be liable to meet abortive costs incurred to the date that Notice of Termination is served. The likely cost to be incurred to terminate the artists contract is £21,500. The figure will only be known after a decision to terminate. In addition, further costs may be incurred in the event that third – party funders decide to withdraw support from the Project Programme.

### 11. **Next Steps**

11.1 The next meeting of the Working Group is provisionally set for 22<sup>nd</sup> August 2019. As outlined above, key decisions are required on:

- The proposed changes to the design of My Ness and corresponding next steps
- The proposed new site for Rest Spaces

- The risk assessment of the Children's Water Feature

Designation: Chief Executive

Date: 9 August 2019

Author: Alison Clark, Acting Head of Policy  
David Haas, City Manager  
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Appendices:

Appendix 1 - Schedule of minutes with links  
Appendix 2 A – Financial summary  
Appendix 2 B – Detailed financial information  
Appendix 3 – Dashboard report example  
Appendix 4 – Project Detail - My Ness  
Appendix 5 – Project Detail – The Sculptural Destination  
Appendix 6 – Project Detail – Rest Spaces  
Appendix 7 – Project Detail - River Connections  
Appendix 8 – Project Detail – Children's Water Feature  
Appendix 9 – Project Detail – The Trail  
Appendix 10 – Letter from Professor James Mooney as lead of the Independent Evaluation Panel  
Appendix 11 – Letter from the Artists  
Appendix 12 – Flood Alleviation Scheme – Environmental Management Plan