

**Comhairle Contae Fhine Gall**  
Fingal County Council



# COMHAIRLE CONTAE FHINE GALL FINGAL COUNTY COUNCIL

## **Taking in Charge Policy & Specifications**

**December 2020.**



|                         |  |     |      |                |                 |                   |
|-------------------------|--|-----|------|----------------|-----------------|-------------------|
| Document Title          | Taking in Charge Policy and Specifications |     |      |                |                 |                   |
| Document Revision No.   |  |     |      |                |                 |                   |
| This Document Comprises | DCS  | TOC | Text | List of Tables | List of Figures | No. of Appendices |
|                         | 1  | 1   |      |                |                 | 15                |

| Rev. | Status   | Author(s) | Reviewed By | Approved By | Issue Date |
|------|----------|-----------|-------------|-------------|------------|
| 0    | Approved | MB        | CG          | SM          |            |
|      |          |           |             |             |            |
|      |          |           |             |             |            |
|      |          |           |             |             |            |

# Table of Contents

|  |    |
|--|----|
| <b>1. Taking in Charge Policy: Overview</b> .....                                | 1  |
| <b>1.1 Introduction</b> .....  | 1  |
| <b>1.2 Legislation</b> .....   | 2  |
| <b>1.3 Fingal County Council’s Taking in Charge Policy</b> .....                 | 2  |
| <b>1.4 Fingal County Council’s Deed of Dedication Policy</b> .....               | 3  |
| <b>1.5 Infrastructure that can be Taken in Charge</b> .....                      | 3  |
| <b>1.6 Facilities that cannot be Taken in Charge (non-exhaustive list)</b> ..... | 3  |
| <b>2. The Planning Process</b> .....   | 3  |
| <b>2.1 Taking in Charge – Pre - Planning Stage</b> .....                         | 4  |
| <b>2.2 Taking in Charge - Planning Stage</b> .....                               | 4  |
| <b>2.3 Planning conditions</b> .....   | 4  |
| <b>2.4 Conditions in relation to phasing of the development</b> .....            | 5  |
| <b>2.5 Management Companies</b> .....  | 5  |
| <b>(i) Traditional Housing Developments</b> .....                                | 5  |
| <b>(ii) Other Developments</b> .....   | 5  |
| <b>3. Development Construction / Completion</b> .....                            | 6  |
| <b>3.1 General</b> .....   | 6  |
| <b>3.2 Application of standards</b> .....  | 6  |
| <b>3.3 Inspection during Construction</b> .....                                  | 7  |
| <b>4. Taking in Charge Process</b> .....   | 7  |
| <b>4.1 Taking in Charge Request from a Developer</b> .....                       | 7  |
| <b>4.2 TIC request by a Plebiscite of Owners</b> .....                           | 9  |
| <b>4.3 Taking in Charge Validation Process</b> .....                             | 9  |
| <b>4.4 Taking in Charge Statutory Process</b> .....                              | 10 |
| <b>5. Taking in Charge Process Map</b> .....                                     | 11 |
| <b>6. Taking in Charge Process for Legacy Developments</b> .....                 | 12 |
| <b>6.1 General</b> .....   | 12 |
| <b>6.2 Assessing / Categorizing requests</b> .....                               | 12 |
| <b>6.3 Category 1</b> .....  | 12 |
| <b>6.4 Category 2</b> .....  | 12 |
| <b>6.5 Category 3</b> .....  | 13 |
| <b>6.6 Remedial works by the Planning authority</b> .....                        | 13 |
| <b>6.7 Other exceptional items</b> .....   | 13 |
| <b>7. Taking into Maintenance (TIM)</b> .....                                    | 14 |
| <b>8. Taking in Charge Flow Charts</b> .....                                     | 15 |

|  |           |
|--|-----------|
| <b>Appendix 1 - Inspection practice by Fingal County Council during construction .....</b>   | <b>0</b>  |
| <b>Appendix 2 – Guidance, Standards etc. ....</b>  | <b>1</b>  |
| <b>Appendix 3 - Bond requirements and Sample Bond Wording.....</b>                           | <b>2</b>  |
| <b>Appendix 4 - Taking in Charge Checklist.....</b>  | <b>3</b>  |
| <b>Appendix 5 - Evidence to be submitted for Taking in Charge of Estates.....</b>            | <b>4</b>  |
| <b>Appendix 6 – Transport Infrastructure Construction and Completion Specification. ....</b> | <b>5</b>  |
| <b>Appendix 7 — Traffic Infrastructure Technical Specification .....</b>                     | <b>6</b>  |
| <b>Appendix 8 – Surface Water TIC Specification.....</b>                                     | <b>7</b>  |
| <b>Appendix 9 – Public Lighting TIC Specification .....</b>                                  | <b>8</b>  |
| <b>Appendix 10 – Open Spaces and Landscaped Areas TIC Specification .....</b>                | <b>9</b>  |
| <b>Appendix 11 – Safety File Requirements .....</b>  | <b>10</b> |
| <b>Appendix 12 – Sample TIC Drawing.....</b>   | <b>11</b> |
| <b>Appendix 13 – Estate Sign Specification .....</b>   | <b>12</b> |
| <b>Appendix 14 – Fingal County Council Green/Blue Infrastructure .....</b>                   | <b>13</b> |
| <b>Appendix 15 –Plebiscite Request for TIC form .....</b>                                    | <b>14</b> |

## **Definitions**

**Taking in Charge** : While there is no legal definition for Taking in Charge, in broad terms “Taking in Charge” means that the Local Authority assumes liability and responsibility for the maintenance of the roads, footpaths and public areas associated with a particular estate, provided these areas are of general public utility, and are offered for Taking in Charge by either the developer or a plebiscite consisting of the majority of owners of the houses involved.

### **Plebiscite:**

The direct vote of all the members of an electorate on an important public question such as in the case the Taking in Charge of a housing estate by the local authority.

### **SUDS:**

Sustainable Urban Drainage Systems. These systems work by storing or re-using surface water at the source which decreases flow rates to watercourses and improves water quality. Examples of these systems are swales, retention ponds and permeable paving.

### **Developer**

Company or person carrying out the development.

**Public Open Space:** Public Open Spaces are green areas which are publicly accessible which are designed for passive and / active recreation and range in size from a Pocket Park (minimum size 500m<sup>2</sup>) to a Regional Park (over 50 hectares).

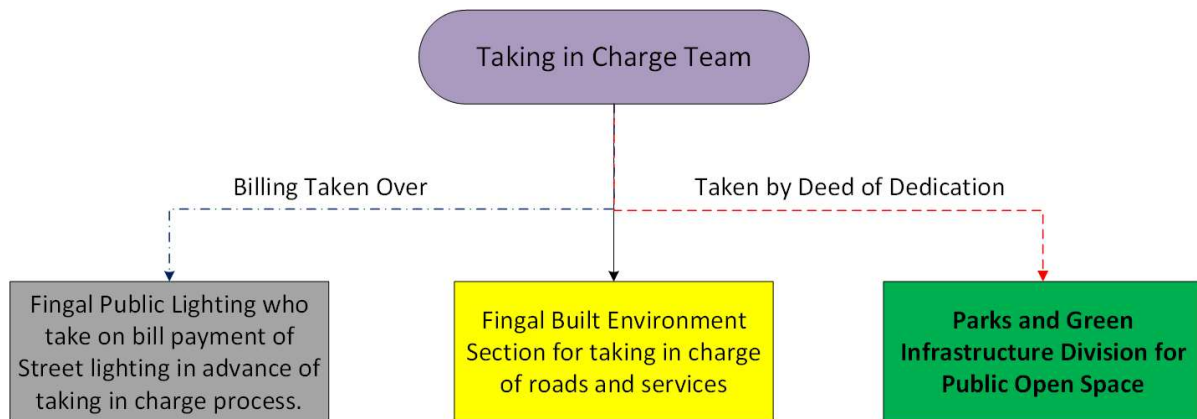
Areas which are not included as Public Open Space as part of the Taking in Charge process by Deed of Dedication are grass margins, linear strips of open space at the sides of roads and incidental open space. These areas come in charge with the roads and services for the estate.

### **Deed of Dedication:**

Lands which are conditioned as Public Open Space by planning permission are legally dedicated to the Council by Deed of Dedication in the Taking in Charge process. This means that these lands are held on behalf of or in trust for the public. The Council is legally prevented from disposing of these lands or using them for purposes other than recreational open space. The title for this land passes to the Council.

**Taking in Charge Team:**

In Fingal County Council, Taking in Charge of Roads and Services are handled by the Built Environment Division, taking on the billing of Street Lighting is handled by the Public Lighting Department while the taking in charge of Public Open Space is through a legal process involving a deed of dedication and is handled by the Parks and Green Infrastructure Division.

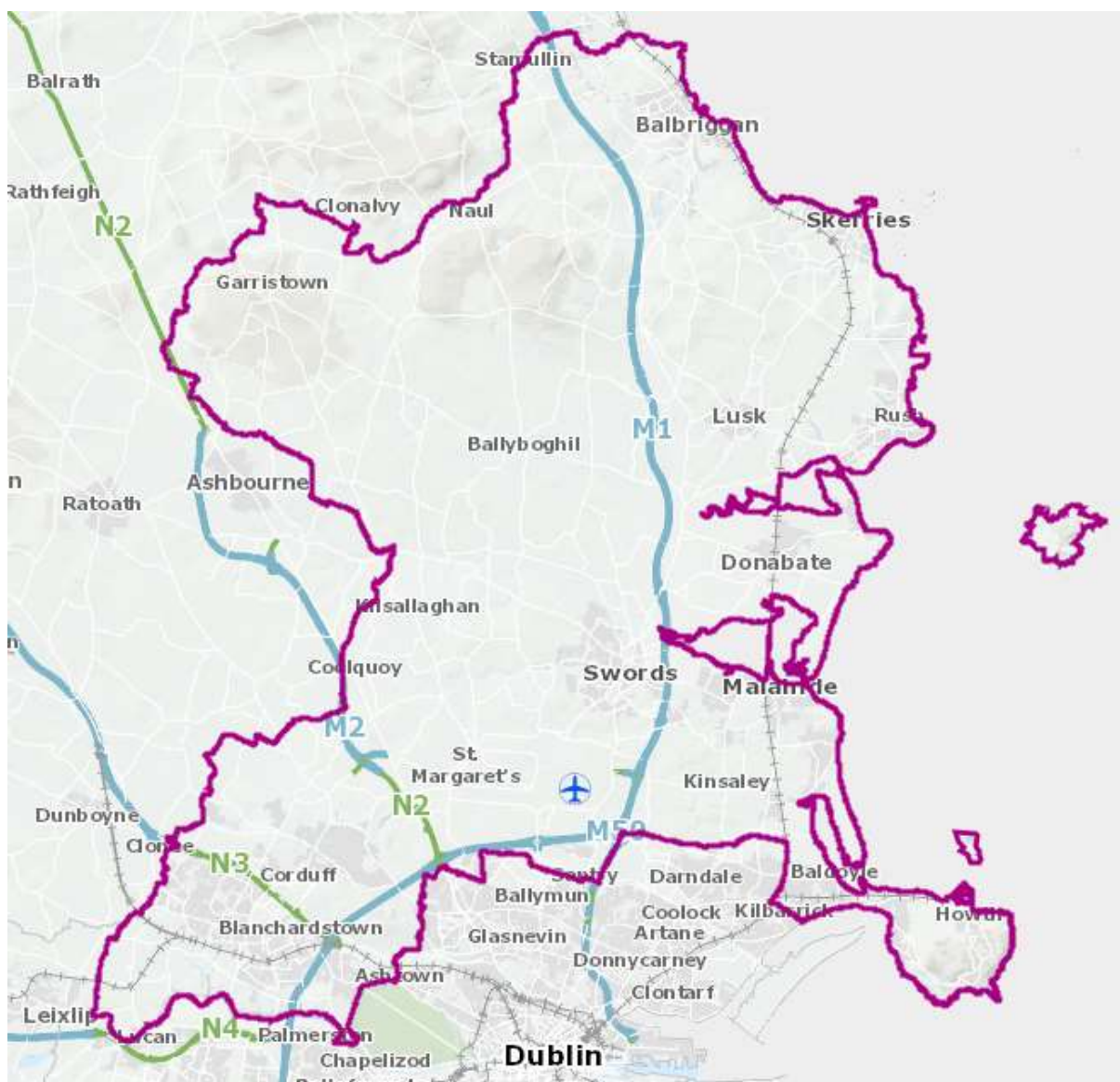


## 1. Taking in Charge Policy: Overview

### 1.1 Introduction

Fingal County Council was established in 1994 and is the Local Authority for the administrative county of Fingal. Fingal is located to the north of Dublin City and is also bordered by South County Dublin, Meath and Kildare, and to the east by the Irish Sea. The county covers an area of c. 448 sq. km. Fingal has a population of 296,214 (Census 2016) making it the third most populous local authority area in the country. The population increased by 77% between 1996 and 2016. The county also has the youngest population in the country and has consistently one of the highest rates of new residential developments in the country.

#### Map of Fingal County Council



## 1.2 Legislation

**Section 11 of 1993 Roads Act** gives the Roads Authority the power to declare a road to be a public road once it was satisfied it was —

- (i) of general public utility
- (ii) and once the Council has considered the costs.

Section 11 also states that the declaration of a road to be public road was a reserved function and subject to advertisement and consideration of any objections raised. It also stated that any roads built by the Roads Authority were automatically on completion deemed to be a public road.

Interpretations 2(d) of the 1993 Act includes the services as part of the road - *any other structure or thing forming part of the road and—*

- (i) necessary for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment*

For the full updated text of Section 11 of the 1993 Roads Act please see <http://revisedacts.lawreform.ie/eli/1993/act/14/section/11/revised/en/html>

Under section **180 of the Planning and Development Act** where permission is granted for the construction of 2 or more houses and the provision of new roads, open spaces, car parks, sewers, watermains or drains, and the development has been completed to the satisfaction of the planning authority in accordance with the permission and any conditions to which the permission is subject, the authority shall, where requested by the person carrying out the development, or, subject to subsection (3), by the majority of the qualified electors who are owners of the houses involved, not later than 6 months after being so requested, initiate the procedures under section 11 of the Roads Act, 1993 .

It also states that where the development has not been completed to the satisfaction of the planning authority and enforcement proceedings have not been commenced by the planning authority within 4 years (F762 of the planning and development (Amendment) Act 2018) beginning on the expiration, as respects the permission authorising the development, the authority shall, where requested by the majority of owners of the houses involved, comply with section 11 of the Roads Act, 1993, except that subsection (1)(b)(ii) ( relating to costs) of that section shall be disregarded.

For the full updated text of the planning and development Act 2000 see

<http://revisedacts.lawreform.ie/eli/2000/act/30/revised/en/pdf?annotations=true>

## 1.3 Fingal County Council's Taking in Charge Policy

The following sections outline the Taking in Charge process to be followed by both developers and internal stakeholders through the life of a new development, from Pre-Planning Stage to Construction to the conclusion of the Taking in Charge Process, where responsibility for maintenance can be transferred to Fingal County Council (FCC). It gives examples of what infrastructure may be Taken in Charge and the associated standards required. The policy also addresses the approach for existing or older developments.



## 1.4 Fingal County Council's Deed of Dedication Policy

Public Open Space is taken in charge by Fingal County Council by a Deed of Dedication. This process is detailed in Appendix 10 Parks and Open spaces.doc

## 1.5 Infrastructure that can be Taken in Charge

Under Section 11 of the Roads Act 1993 and Section 180 of the Planning and Development Act 2000, Fingal County Council's Taking in Charge policy involves taking control of the following services and public areas associated with a development where they are deemed to be a 'general public utility' and are built to the correct standard and in accordance with their planning permission.

- Roads (including distributor and estate) and their ancillary footpaths, street trees, margins, street furniture, underground ducting and generally the area between opposite boundaries. (not gated developments).
- Unallocated surface parking areas provided no gate or barrier has been erected.
- Public lighting.
- Public open spaces and play facilities located on them as required by condition of a planning permission.
- SUDS features above ground such as permeable paving, ponds, swales and detention basins where these SUDS features are located in public areas and have been built in accordance with Fingal County Council's Green/Blue Infrastructure Taking in Charge Specification
- Surface Water Infrastructure below ground comprising of assets such as pipes, manholes, pump stations etc.

**Note1:** Since April 2019, all Foul drainage and Watermains are taken in charge by Irish Water directly under a Self-Lay agreement.

## 1.6 Facilities that cannot be Taken in Charge (non-exhaustive list)

- Boundary walls\*
- Roads or services connecting into private infrastructure such as private roads, sewers etc. (i.e. roads that are not connected to an existing public road).
- Areas identified as private areas in Taking in Charge planning drawings and Taking in Charge planning compliance drawings.
- Allocated parking areas.
- Gated Developments.
- Industrial estates.
- Commercial centres with no housing attached such as shopping centres.
- Developments that have been conditioned to be private in their planning permission as they have no public utility

\* All walls must be built to Building Regulations, ISEN 1996 and S.R. 325:2014 recommendations for the design of masonry structures in Ireland to Eurocode 6.

## 2. The Planning Process

The Planning Section of the Fingal Website <https://www.fingal.ie/council/service/planning-permission> will contain an advisory note that developers who are building two or more houses are urged to submit a Taking in Charge drawing as part of their planning application. Early identification of the

areas to be taken in charge is crucial in ensuring an efficient and timely Taking in Charge process by Fingal County Council.

### **2.1 Taking in Charge – Pre - Planning Stage**

Taking in Charge should form a part of any pre-planning discussions between the developers (of two or more housing units) and Fingal County Council's Planning and Strategic Infrastructure Department. As part of this discussion, the developer is recommended to provide a site layout drawing detailing the areas to be taken in charge. Developers should refer to the most recent version of this "Taking in Charge Standards & Policy" which will be available for download from [www.fingal.ie](http://www.fingal.ie).

### **2.2 Taking in Charge - Planning Stage**

Developers of two or more housing units shall be encouraged to submit a Taking in Charge drawing(s) with their planning permission application detailing the areas that they wish to be taken in charge by Fingal County Council.

This drawing(s) should delineate between areas that are to be considered for Taking in Charge and areas of the development to remain private and be controlled by a management company. The part of the approved development to remain private must be delineated on a site layout map.

If this drawing is not submitted at planning stage then a condition may be imposed on all multi-unit developments to be granted permission, that before any development commences, the developer submit a plan for the agreement of the Planning Authority that clearly delineates that part of the approved development to be offered for Taking in Charge and/or in the case of development to be controlled by a management company, that part of the approved development to remain in private ownership. This plan must also consider any revisions required by any other condition of the planning permission for the development.

It is envisaged that, generally, certain core services such as surface water drainage, street lighting and unallocated parking will be taken in charge. As such the developer's designers should work with Fingal County Council to ensure that the design of the approved development will facilitate this by separating the areas/facilities that will be taken in charge from those that will not.

**Note:** No element of any services to be taken in charge (such as sewers, water-mains & public lighting) should be located under areas to be kept in private ownership.

Where a proposed development is not to be offered for Taking in Charge and especially where a gated type development is proposed, it will be an express requirement of Fingal County Council that the areas of the development located in the public domain [including the access, any road widening that has taken place, any roundabout or other such junction arrangement and including any associated drainage, public lighting and other associated services] shall be completed to standard in this document and appendices before any part or section of the development is occupied. The standards and requirements outlined in this document pertain to developments to be offered for Taking in Charge and **also** developments to be controlled by management agents/companies.

### **2.3 Planning conditions**

Section 34 of the Planning and Development Act 2000 provides the legislative basis for attaching conditions to planning permissions. Appropriate conditions will be attached to grants of permission for residential/ or other use development in relation to Taking in Charge including, but not limited to:

- The giving of adequate financial security and the length of time the security must remain in place. This length of period will be until the development is taken in charge or in the case of a private development until it is agreed that the development has been at Taking in Charge standard and maintained at this standard for a period of 12 months.
- The maintenance (including wear and tear) by the developer of the residential/or other use development at Taking in Charge standard until the development is either Taken in Charge or in the case of a private development a bond release is agreed.
- The completion of the development in accordance with specified standards e.g. this Policy document and associated specifications.
- The phasing of the development, if appropriate.
- A public lighting condition stating that lights must be operational to allow safe access to the buildings before the buildings are occupied.
- A condition stating that all areas and underground services to be taken in charge must be contained in public areas – i.e. that private property does not prevent access for maintenance purposes.
- Public Open space condition for transfer of land by Deed of Dedication.

## **2.4 Conditions in relation to phasing of the development**

Fingal County Council may attach a condition regarding the phasing of the development in order to ensure that residents / owners or occupiers do not have to live in uncompleted developments for lengthy periods.

In implementing any phasing arrangement, the developer will ensure that main sewers, surface water drainage systems, main distributor roads, water mains, public lighting etc., are completed at an appropriate stage so that the first and each subsequent phase will, on completion, be fully serviced and independent in the event of other phases not proceeding or the permission expiring.

## **2.5 Management Companies**

### **(i) Traditional Housing Developments**

Fingal County Council will not require management companies for traditional housing estates (that is estates of houses with individual private gardens) except in the most exceptional circumstances, e.g. to maintain a specific facility in that estate which is for residents use only (such as a private playground) or in the case of holiday homes. It is the responsibility of the developer to construct and maintain to Fingal County Council's standard for Taking in Charge all the roads, including footpaths, verges, public lighting, open space, sewers, watermains or drains, forming part of the development, until taken in charge by Fingal County Council.

### **(ii) Other Developments**

The circumstances where Fingal County Council may attach a planning condition requiring the establishment of a management company may include the following:

- (a) In developments comprising houses, apartments, duplexes or a mix of any of these, to maintain external private shared facilities (i.e. not considered to be a general public utility) that are exclusive to the development (e.g. boiler houses, switch rooms, bin storage areas communal private gardens/private open spaces, private playgrounds), where a management company is

considered essential having regard to the nature and scale of such facilities and where these facilities are not considered to be of general public utility.

- (b) In developments comprising houses, apartments, duplexes or a mix of any of these, to maintain facilities which though not necessarily inaccessible to the general public, are not required to be taken in charge, in accordance with this document, e.g. facilities such as highly landscaped open spaces and allocated car park spaces. These facilities are not considered to be general public utilities.
- (c) To maintain holiday home developments, that is, residential/ or other use developments where planning permission was granted, on the basis that the residential units are holiday homes, or residential developments used entirely for short-term letting. These developments must be declared as private areas in the planning permission as they are not general public utilities.

### **3 Development Construction / Completion**

#### **3.1 General**

The developer will ensure that the development is at the Taking in Charge standard within the duration of the planning permission (see sections 3.2 – 3.4). This will involve a comprehensive and integrated approach to dealing with the planning process for residential or other use development.

Fingal County Council will open a folder on the Fingal County Council SharePoint system to allow the developer to upload the relevant taking in charge information. The developer can obtain access to this folder by emailing [ticesates@fingal.ie](mailto:ticesates@fingal.ie). It is recommended that the developer obtains access to this folder early during the construction process so that the developer can upload the relevant documents as the development progresses. An example of the type of documentation uploaded would be built records, health and safety information etc.

#### **3.2 Application of standards**

All residential or other use developments must at a minimum comply with the standards published by Fingal County Council in this document.

Appendices to the policy document set out Fingal County Council's construction and design standards for various types of infrastructure. The appendices are as follows

Appendix 1 - Inspection practice by Fingal County Council.

Appendix 2 - Guidance, Standards etc.

Appendix 3 - Bond requirements and Sample Bond Wording.

Appendix 4 - Taking in Charge Checklist.

Appendix 5 – Taking in Charge Request Form.

Appendix 6 - Roads TIC Specification.

Appendix 7 - Traffic Infrastructure Technical Specification

Appendix 8 - Surface Water TIC Specification.

Appendix 9 - Public Lighting TIC Specification.

Appendix 10 - Open Spaces and Landscaped Areas TIC Specification.

Appendix 11 - Fingal County Council Safety File Requirements.

Appendix 12 – Sample Taking in Charge drawing.

Appendix 13 – Estate Sign Specification.

Appendix 14 – Blue/Green Infrastructure Specification.

Appendix 15 – Plebiscite Request for Taking in Charge Form.

Developments that fail to reach this standard will not be considered for Taking in Charge.

### 3.3 Inspection during Construction

It is the duty of the developer to ensure that the development is built in accordance with its planning permission and in line with the standards set out in this Taking in Charge policy. Developments that fail to reach this standard will not be considered for Taking in Charge and may be subject to Planning Enforcement and/or bond sequestering for non-compliance with the developments planning conditions.

Notwithstanding the above legal responsibilities, the following checks may be carried out by Fingal County Council during the construction process.

- (i) Visual checks (Built Environment Inspector may carry out an inspection in tandem with building control Inspections)
- (ii) Pressure tests on Watermains (Built Environment Inspector under the Service Level Agreement with Irish Water).
- (iii) Air Tests on Foul sewers (Built Environment Inspector under the Service Level Agreement with Irish Water)
- (iv) Air Tests on Surface Water sewers. (Built Environment Inspector)
- (v) Chlorination and bacteriological checks on new watermain connections ( Water Services/Operations Inspector under the Service Level Agreement with Irish Water).
- (vi) Public lighting Inspection (Public Lighting Inspector in order to confirm street lighting is in accordance with “Appendix 9 Public lighting Taking in Charge Specification”).

### 3.4 Enforcement action

If Fingal County Council becomes aware of a non-compliance with the development’s planning permission, the Developer and his/her agents will immediately be notified. If the Developer fails to address the planning non-compliance then Planning Enforcement Act will be taken. Developments which are bonded to ensure compliance with this TIC (Taking in Charge) policy may have their bond sequestered in order to bring the development to the correct standard.

## 4 Taking in Charge Process

When a development has reached the standard acceptable for Taking in Charge, then the Taking in Charge procedure can be initiated either by a developer or by a plebiscite comprising the majority of owners in an estate. These are dealt with separately below.

**Note:** All Taking in Charge requests and enquires should be emailed to [ticesstates@fingal.ie](mailto:ticesstates@fingal.ie)

### 4.1 Taking in Charge Request from a Developer

The procedure is as below

1. A Taking in Charge request is made when the developer submits a completed Taking in Charge request form to [ticestates@fingal.ie](mailto:ticestates@fingal.ie) and all the necessary supporting documentation has been uploaded to the Fingal County Council SharePoint folder; and the estate is at Taking in Charge standard. This request will be acknowledged and validated by Fingal County Council by return email. (Access to the Fingal County Council SharePoint folder can be arranged by emailing [ticestates@fingal.ie](mailto:ticestates@fingal.ie) )  
The Taking in Charge form, checklists etc. are available as appendices to this document and can be downloaded from the Taking in Charge section of Fingal County Council website (<https://www.fingal.ie/planning-and-strategic-infrastructure>). The management of the Taking-in-Charge process will be delegated to a Built Environment Inspector and/or an Executive Engineer with responsibility for that area. Both the developer's and the Taking in Charge team shall make contact with the Parks and Green Infrastructure Division to commence the Deed of Dedication process for Public Open Space.
2. Once a valid Taking in Charge request is made, a 12-month maintenance period will commence and the developer will be notified. Fingal County Council will commence the process of carrying out checks to ensure that the development is at Taking in Charge Standard within 6 months of receiving the Taking in Charge request.
3. The Built Environment Division and the Parks and Green Infrastructure Division shall carry out a joint inspection of the SUDS features.
4. Staff from the Built Environment and Parks and Green Infrastructure Divisions will be in touch with the developer at various stages during the maintenance period in order to assess the estate and make sure the estate is at Taking in Charge standard. If a major defect is found, then the 1-year maintenance period will be restarted on completion of the remediation works. Also if the development is found to be not complete or still under construction then the one-year maintenance period will commence on the completion of the outstanding works.
5. A Planning compliance check will be carried out and the developer notified if there are any planning non-compliances.
6. All Surface Water CCTV will be assessed, and planning compliance and any other administrative checks will be carried out during this 12 month period.
7. The Developer will arrange for a number of cores of the road to be taken at various points in the development. The number of cores will be kept to a minimum but will include any areas that the Built Environment Inspector has concerns over. These locations may include footpaths under which constructed tree pits are located. The position of these cores will be agreed with the Built Environment Inspectors. A copy of the core reports is to be emailed to [ticestates@fingal.ie](mailto:ticestates@fingal.ie)
8. Samples will be taken on all surface water outfalls in order to make sure that there is no contamination from the foul water system
9. All defects identified by the Built Environment Division and the Parks and Green Infrastructure Division will need to be corrected. The defects identified by Built Environment Division and Parks and Green Infrastructure Division are not a snag list as it can be added to if more non-compliances appear, this is a list of outstanding works and will continually be added to until the development is taken in charge.
10. It should be noted that grass margins, street trees and incidental open space are taken in charge with roads and services. It is very important that the developer engages with the Parks and Green Infrastructure Division at an early stage in order to snag these areas and to facilitate a growing season for any planting / remedial work that may be required. Failure to do so may lead to delays in the taking in charge of these roads and services.

11. On expiry of the years maintenance period, the developer will carry out a stage 4 road safety audit and submit the results of this audit to Fingal County Council. The local authority Built Environment Division and the Parks and Green Infrastructure Division will walk the site and if all is in order and there is no evidence of any latent defects, the housing estate will be taken in charge without further delay in line with the procedures outlined in Section 11 of the Roads Act 1993 and Section 180 of the Planning and Development Act 2000. Should the Council officials encounter multiple defects, the inspection will be suspended until the developer's agents confirms the readiness of the site for a Council inspection.

The developer will provide if requested, the required personnel to assist the local authority staff in checking the information supplied on the "as-constructed drawings". These as constructed drawing shall be as per the specification in Appendix 12 - Fingal County Council Taking in Charge Drawing requirements

#### **4.2 TIC request by a Plebiscite of Owners**

In accordance with Section 180 of the Planning and Development Act 2000 (as amended) a Taking in Charge request can be made by a plebiscite comprising of the majority of owners in a development 4 years after the expiry of the planning permission for the development. Upon receipt of a request through a plebiscite using the form attached in Appendix 15 of this document) for a development to be taken in charge and assessment of the validity of the plebiscite, the local authority will issue the nominated spokesperson with an acknowledgment confirming receipt of the application.

Firstly, the development for which planning permission is granted, that includes the construction of **two** or more houses, where the provision of new roads, open spaces, car parks, sewers, water mains or service connections and the development at large must be completed to the satisfaction of the planning authority. This means it must be completed in accordance with the granted planning permission and any conditions attached to the permission.

If the development is not at Taking in Charge standard, Fingal County Council may bring the development to Taking in Charge standard either by sequestering the bond if it is available or carrying out the works necessary to bring the estate to this Taking in Charge Standard. The Council has certain discretion in this regard where planning enforcement has been initiated previously. When the development is at Taking in Charge Standard, the Council will commence without delay the statutory process of taking the development in charge

#### **4.3 Taking in Charge Validation Process**

During the Taking in Charge validation process, the development, including the following infrastructure, is assessed for compliance with its planning permission, this TIC document (and associated design standards and specifications) and relevant legislation. Inspections will be carried out on:

- Public lighting
- Roads
- Footpaths
- Grass Verges and incidental open space including street tree type and location.
- SUDS features.
- Parking spaces.
- Surface Water Sewers ( Visual checks on Manholes and CCTV of the sewer lines).
- Public Open Spaces including any play facilities (See Appendix 10 Parks and Open Spaces.doc for the deed of dedication process for Public Open Space ).

- Existing trees within the site.
- Samples will be taken on all surface water outfalls in order to make sure that there is no contamination from the foul water system.
- A check will be carried out by the Bonds and Contribution section that there is a valid bond and that all development levies and fees have been paid by the developer.
- A check that all Deeds of Dedication documentation for Public Open Space has been submitted and accepted by the Parks and Green Infrastructure Division.
- A check will be carried out to verify any wayleaves that are required are submitted and in order.

The inspection by the Council is for the purposes of Taking in Charge only and does not in any way exonerate the developer or certifying competent agencies/firms from their liabilities.

**Note:** Watermain and Foul Water Infrastructure will be taken in charge directly by Irish Water under a Self Lay agreement and with the requirement for a separate Insurance Bond

#### **4.4 Taking in Charge Statutory Process**

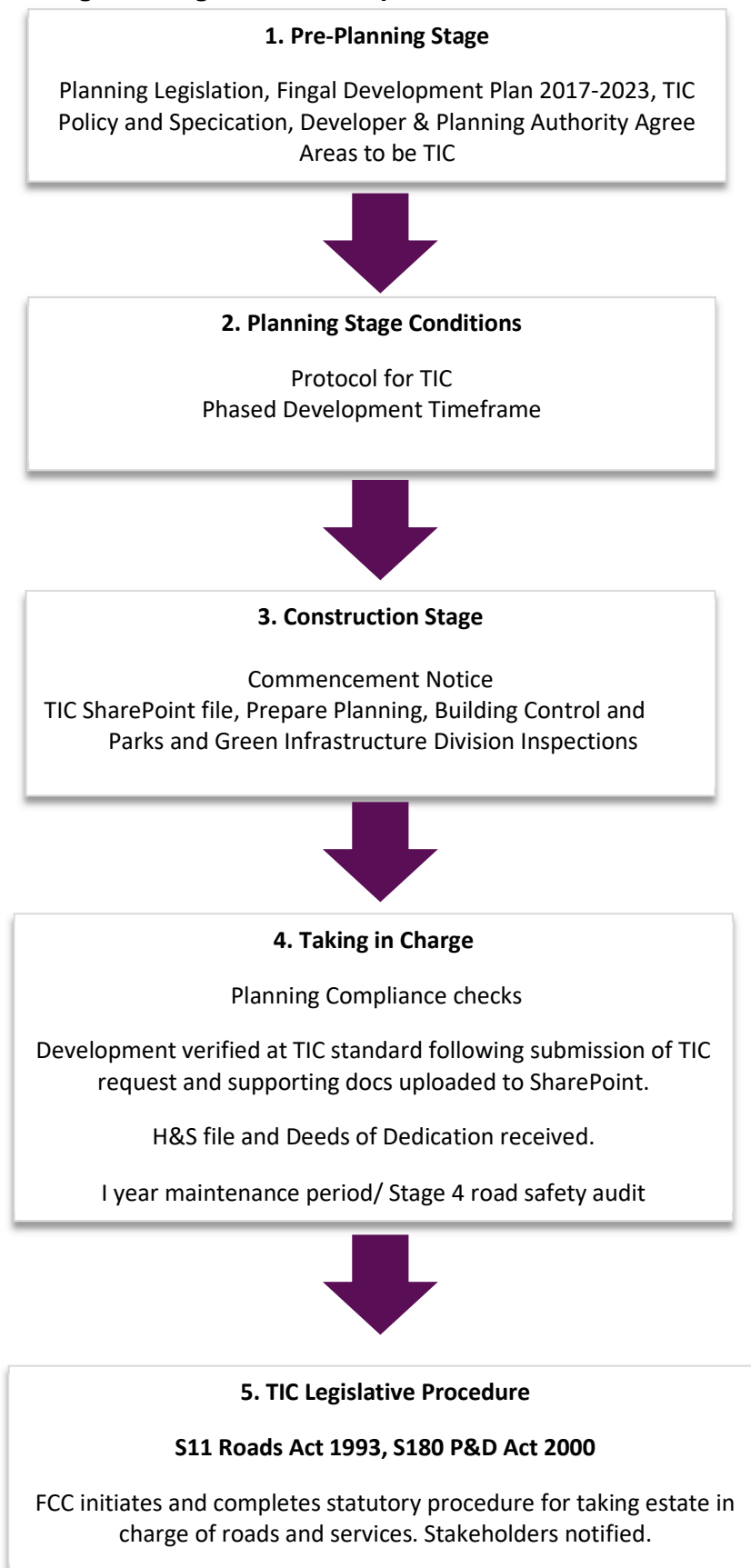
When Fingal County Council is satisfied that the development meets the standard for Taking in Charge and after the one year maintenance period, the Council will enact the statutory Taking in Charge Process in relation to roads and services.

This consists of advertising the proposed area for Taking in Charge in the papers and waiting for at least the statutory period of 6 weeks specified in Section 11 of 1993 Roads Act, whereupon having considered any submissions the development can be put before the elected members.

Taking in Charge is a Reserved Function, meaning the elected members vote to take the development in charge. A Chief Executive's Order is signed, and the roads and services relating to the development are taken in charge. Following the roads and services being taken in charge, all the stakeholders both internal (such as the Fingal County Council Operations Department) and external (such as the Developer / Residents spokesman/ Landowner) are notified.



## 5 Taking in Charge Process Map



## 6 Taking in Charge Process for Legacy Developments

### 6.1 General

The publication and proactive implementation of a Taking in Charge policy based on the framework set out in this document, in relation to residential/ or other use developments to be built in the future, will ensure that they are completed in accordance with the planning permission within the lifetime of the permission, or, if they are not, that enforcement action is taken or the bond is called in, so that the necessary works are carried out promptly.

Also, as the prompt production of documents/evidence by the developer to show that the residential/ or other use developments is completed properly will be a condition of the planning permission, there should be no delays in the production of such documentation in the future. Accordingly, in the future the planning authority should be able to take in charge residential/ or other use developments more efficiently upon requests to do so.

### 6.2 Assessing / Categorizing requests

In relation to those requests for Taking in Charge estates currently on hand where the planning permission has expired, Fingal County Council will continue to assess the status of such estates.

These will generally fall into the following categories:

- Category 1 - Estates which have been completed to Taking in Charge standard in accordance with the terms of the planning permission but not yet taken in charge.
- Category 2 - Estates which have not been completed in accordance with the terms of the planning permission and where enforcement action/calling in the bond is still possible.
- Category 3 - Estates which have not been completed in accordance with the terms of the permission and enforcement action was not taken within the specified period or was unsuccessful and there is no bond.

New requests for Taking in Charge of estates must be promptly assessed and then dealt with in accordance with the procedures set below.

### 6.3 Category 1

Where an estate is inspected and certified as being completed in accordance with the terms of the planning permission and it is deemed to be a general public utility, it will be taken in charge on foot of a request to do so. As per the legislation, the Taking in Charge process will be initiated not later than 6 months from the date of the request.

### 6.4 Category 2

Taking in Charge requests from residents for the Taking in Charge of uncompleted estates will be assessed, considering such factors as the date of application, the condition of the estate and the length of time it has been left unfinished. New requests for the Taking in Charge of unfinished estates will be prioritized, as appropriate.

All unfinished estates which the subject of a request are to be taken in charge will be kept on this list, including estates where it may be possible to have the estate completed at the expense of the developer, through enforcement action or calling in the bond.

### **6.5 Category 3**

Any of the actions already referred to that are still possible (i.e. enforcement action or sequestering the bond) in terms of getting the estate completed will be pursued as a priority other than at the expense of the planning authority.

### **6.6 Remedial works by the Planning authority**

In accordance with section 180(2) of the Planning and Development Act 2000 and the guidance set out in this document, unfinished estates can be taken in charge after a period of 4 years post expiry of the relevant planning permission, where the majority of-owners in the development so request, and it follows that enforcement action or calling in the bond is not possible or has been unsuccessful. It may fall to the local authority to then complete such developments to Taking in Charge standard.

### **6.7 Other exceptional items**

From time to time exceptional items arise to be Taken in Charge. Such items could include a section of road, a sewer or drain, a park, an attenuation area, a road or pedestrian bridge amongst others. In certain cases, no Bond or other form of security may exist, and it may fall on the Council to bring the item to Taking in Charge standard at its own expense. In such cases a detailed report will be provided in order that full costs can be determined and inform the Council's decision on whether to proceed with the Taking in Charge procedure.

If the Council proceeds with taking in charge, then the statutory Taking In Charge process described in section 4.4 of this document will be enacted.

## **7 Taking into Maintenance (TIM)**

The statutory Taking in Charge process is not required where a piece of infrastructure is constructed for or otherwise provided for the local Authority.

Section 11 (7) of the Roads Act 1993 states that:

“Any road constructed or otherwise provided by a road authority after the commencement of this section shall, unless otherwise decided by such road authority, be a public road and it shall not be necessary for the authority to make an order under subsection (1) in relation to any such road.”

There are generally three different scenarios when roads/services are built for Fingal County Council. These scenarios are as follows

### **7.1 Infrastructure built by Fingal County Council**

Fingal County Council engages consulting engineers to design the piece of infrastructure, typically a road scheme, engage contractors and project manage the works. The lands on which the road is built are purchased by Fingal County Council either by CPO or by agreement. Fingal County Council engage professional agents to undertake quality assurance of the construction process on their behalf.

### **7.2 Developer provided Infrastructure (DPI)**

This is where a developer provides infrastructure on behalf of the Council. This is usually provided as part of a planning permission and the developer may be entitled to development levies' offsets for the portion of the scheme that is over and above that necessary for the development. The developer shall engage professional agents to undertake quality assurance of the construction process on their behalf.

### **7.3 Housing built by Fingal County Council**

Fingal County Council Architects' Department designs a housing development on land in the Council's ownership, engage contractors and or Consultants and project manage the works. Fingal County Council engage professional agents to undertake quality assurance of the construction process on their behalf.

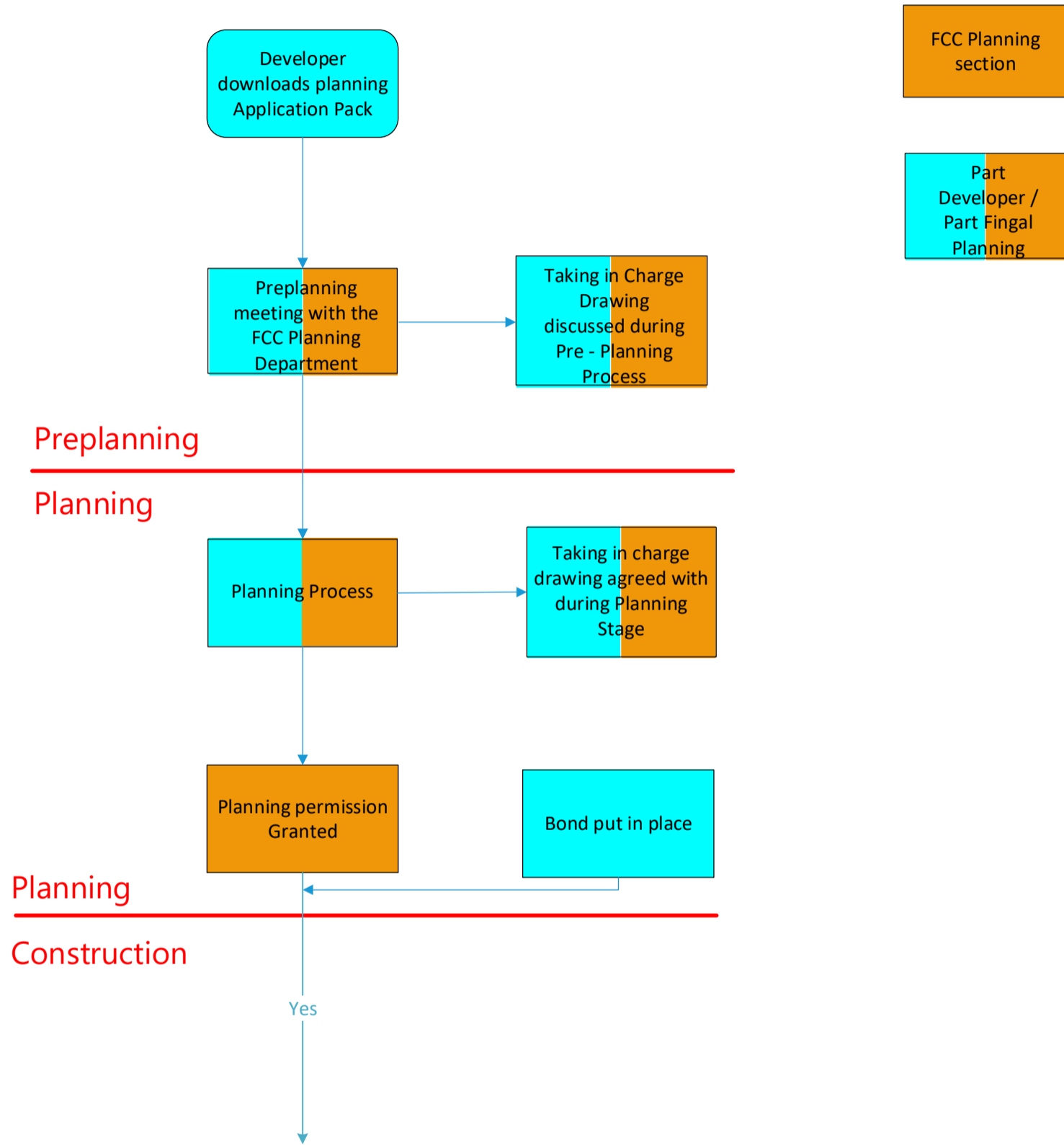
In all those three scenarios, when it comes to taking the infrastructure in maintenance, the same documentation shall be submitted by the developer/ developer agents/relevant section of Fingal County Council, as if the infrastructure was offered to be taken in charge. This will involve filling in the Taking in Charge request form in Appendix 5 and submitting all the information requested in Appendix 4.

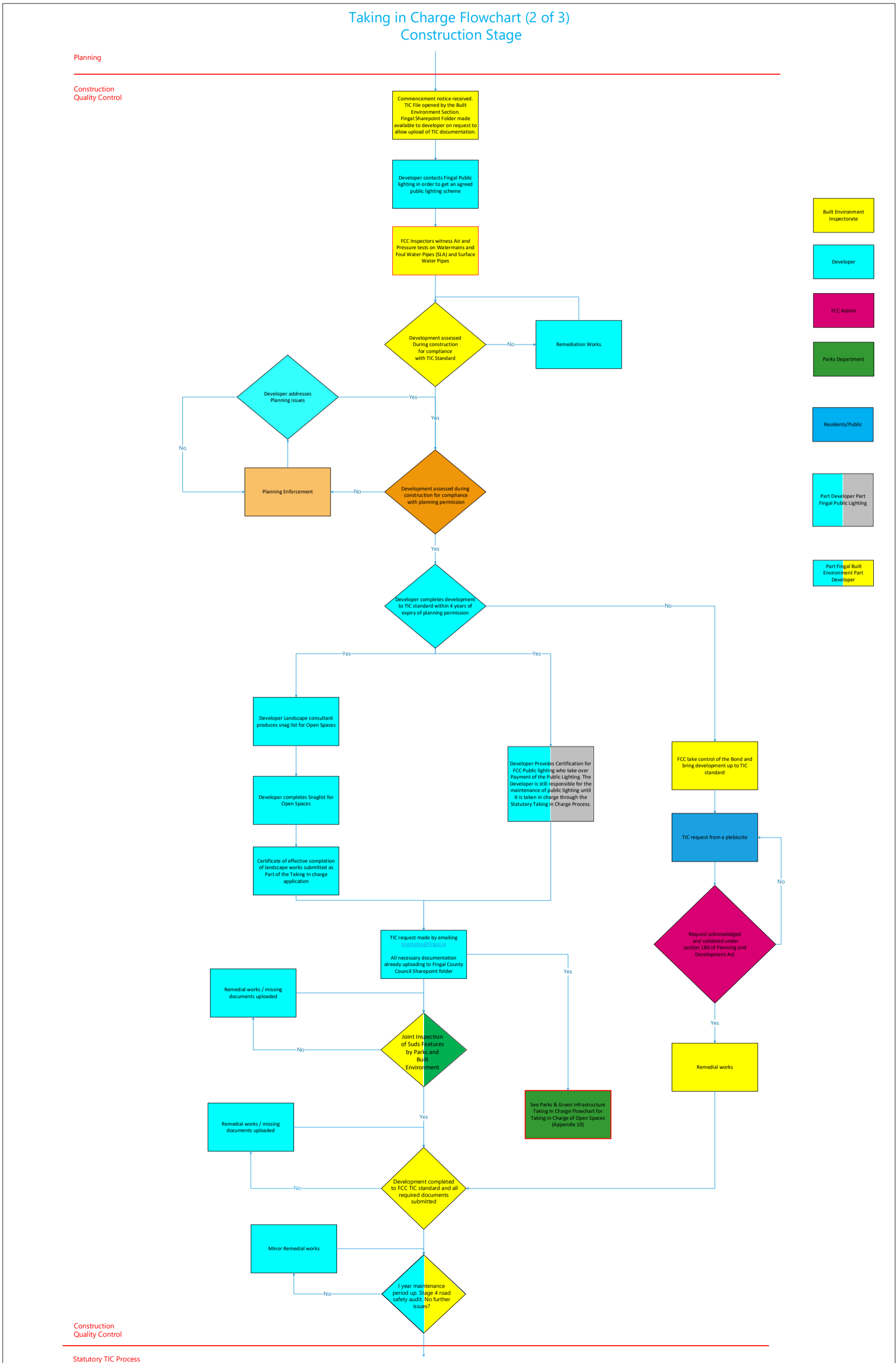
In all scenarios above the construction benefited from site quality assurance and sign off under the contract. As such the TIM process involves collation and validation of all that information. Upon validation, Fingal County Council Built Environment Division will prepare a Chief Executive's Order for taking this infrastructure in maintenance.

When this Chief Executive's Order is signed, the infrastructure/housing and associated services will be taken into maintenance and all the stakeholders will be notified.

8. Taking in Charge Flow Charts

### Taking in Charge Flowchart (1 of 3) Planning and Preplanning Stage



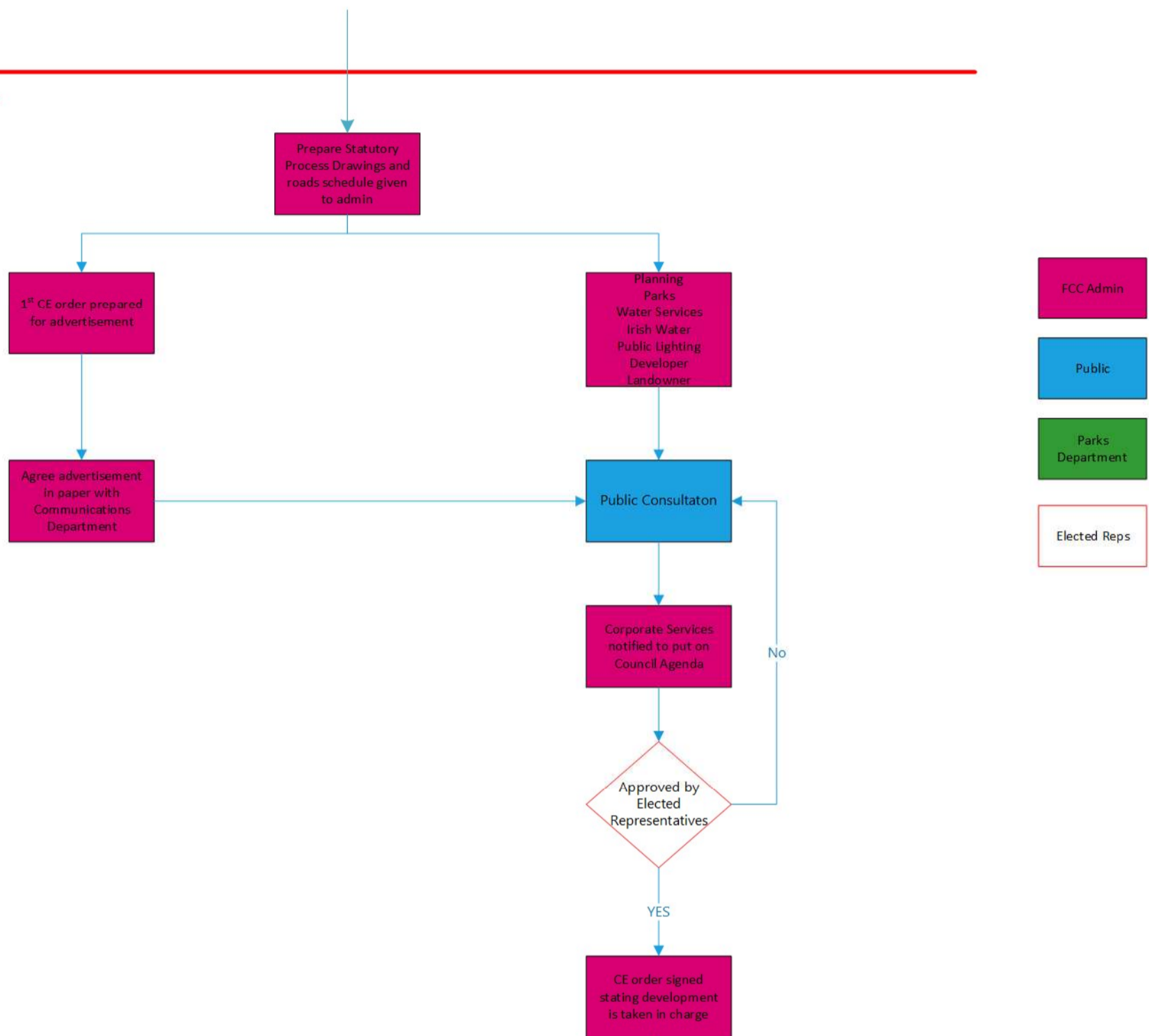


## Taking in Charge Flowchart (3 of 3) Statutory TIC Process and Informing Stakeholders

Construction Stage

---

Statutory TIC Process

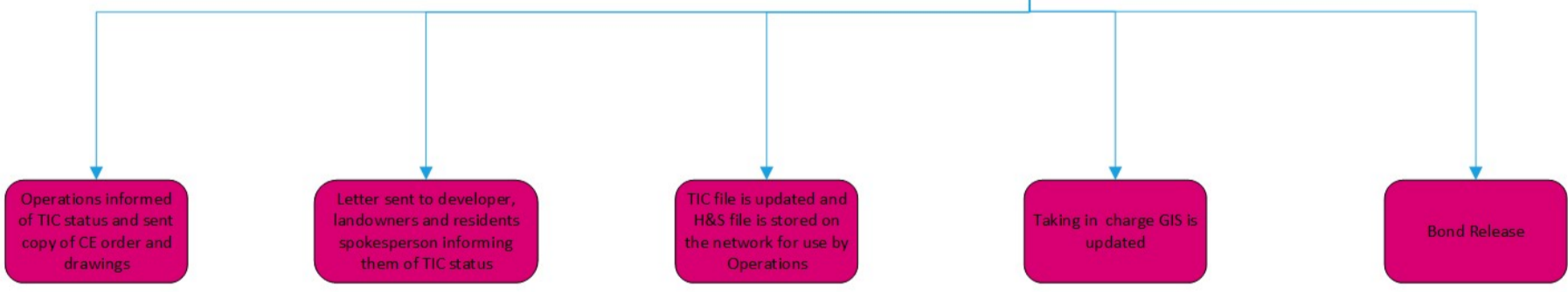


- FCC Admin
- Public
- Parks Department
- Elected Reps

Statutory TIC Process

---

Informing Stakeholders



## Appendix 1 - Inspection practice by Fingal County Council during construction

The following procedure for inspecting the construction of residential/or other use developments during construction has been enacted by Fingal County Council.

Example:

- (i) On receipt of the Commencement Notice, a Taking in Charge file is opened for each residential development of 2 or more houses
- (ii) The Commencement Notice and all requests for inspections and other correspondence arising from the process are put in the Taking in Charge File.
- (iii) Inspections will be carried out at various stages by the Built Environment Inspectors during the development. These inspections may be tied in with Building Control Inspections

Fingal County Council Built Environment Inspectors will carry out the following checks during the construction process.

- a. Visual Checks.
  - b. Pressure Tests on Watermains (under the Service Level Agreement with Irish Water).
  - c. Air tests on Foul Sewers (under the Service Level Agreement with Irish Water).
  - d. Air tests on Surface Water Sewers.
  - e. Check on the SUDS construction in conjunction with Parks and Green Infrastructure Division.
  - f. Check that any water courses and ditches are clear and in good condition.
- (iv) The Public Lighting Inspector will inspect the street lighting prior to it being taken in charge. The street lighting will be taken in charge as the development is occupied in order to provide safe access and egress from the development. This will happen prior to the formal Taking in Charge process and prior to anything else being taken in charge. Public lighting must be built in accordance with Appendix 9 "Public lighting Taking in Charge Specification" of this document.
  - (v) The Parks and Green Infrastructure Division will carry out site inspections to ensure the open spaces, playgrounds etc. are in line with the specification detailed in "Appendix 10 Parks and Open Spaces".
  - (vi) The record of such inspections and/or testing is held on the Taking in Charge file;
  - (vii) Failure to adhere to programmes, to notify the local authority in relation to inspections and testing or other such breaches is referred for Enforcement Action commencing with the issuing of the statutory Warning Notice, copies of which are held in the Taking in Charge file;
  - (viii) The record of such Final Inspections and/or Testing is kept on file and the file is retained by the local authority for future reference.



## Appendix 2 – Guidance, Standards etc.

All relevant, current best practice guidance and relevant codes and standards related to this policy document include, but are not limited to:

- Fingal County Council Citizens' Charter
- Design Standards for New Apartments - Guidelines for Planning Authorities (March 2018)
- Development Management Guidelines for Planning Authorities (DEHLG, 2007)
- Sustainable Residential Development in Urban Areas and Urban Design Manual Best Practice Guide (DEHLG, 2009)
- Urban Development and Building Height Guidelines for Planning Authorities (DEHLG, 2018)
- Urban Design Manual, A Best Practice Guide (DEHLG, 2009) and
- Guidance in relation to a framework policy for the Taking in Charge of residential developments by planning authorities (February 2008).
- Current Building Regulations and Building Control Legislation
- Recommendations for Site Development Works for Housing Areas – Department of Environment and Local Government (1998)
- Traffic Management Guidelines (latest edition)
- Provision of cycle facilities National manual for Urban Areas
- Traffic Signs Manual (latest edition)
- Guidelines and Tender Documentation for Road Marking Materials(latest edition)
- Building Regulations. (Part M Amendment) Regulations 2010.
- Greater Dublin Regional Code of Practice for Drainage Works (latest edition)
- EN13201:2015 – Road Lighting
- BS5489: 2013 – Code of practice for the design of road lighting (Lighting of roads and public amenity areas)
- Fingal County Council Public Lighting Specification (latest edition)
- The Civil Engineering Specification for the Water Industry, latest edition, (CESWI), published by the Water Research Centre (WRc plc)
- Irish Water's, 'Code of Practice for Wastewater Infrastructure' (latest edition sourced from [www.water.ie](http://www.water.ie))
- Irish Water's, 'Wastewater Infrastructure Standard Details' (latest edition sourced from [www.water.ie](http://www.water.ie))
- Irish Water's, 'Design Risk Assessment for Wastewater Infrastructure Standard Details' (latest edition sourced from [www.water.ie](http://www.water.ie))
- Irish Water's, 'Code of Practice for Water Infrastructure' (latest edition sourced from [www.water.ie](http://www.water.ie))
- Irish Water's, 'Water Infrastructure Standard Details' (latest edition sourced from [www.water.ie](http://www.water.ie))
- Irish Water's, 'Design Risk Assessment for Water Infrastructure Standard Details' (latest edition sourced from [www.water.ie](http://www.water.ie))
- Forest of Fingal, A Tree Strategy for Fingal
- Keeping it Green, An Open Space Strategy for Fingal

## **Appendix 3 - Bond requirements and Sample Bond Wording**

Please refer to separate attachment:

“Appendix 3 – Fingal County Council Bond Requirements

## **Appendix 4 - Taking in Charge Checklist**

Please refer to separate attachment:

“Appendix 4 - Fingal County Council Taking in Charge Checklist”

## **Appendix 5 - Evidence to be submitted for Taking in Charge of Estates**

Please refer to separate attachment:

Appendix 5 - Evidence to be submitted for Taking in Charge of Estates.

## **Appendix 6 – Transport Infrastructure Construction and Completion Specification.**

Please refer to separate attachment: Appendix 6: “Transport Infrastructure Construction and Completion Specification”

## **Appendix 7 — Traffic Infrastructure Technical Specification**

Please refer to separate attachment: “Appendix 7 — Traffic Infrastructure Technical Specification”

## **Appendix 8 – Surface Water TIC Specification**

Please refer to separate attachment:

Fingal County Council: Surface Water Taking in Charge Specification

## **Appendix 9 – Public Lighting TIC Specification**

Please refer to separate attachment:

“General Specification for Public Lighting Installations in Residential, Industrial and Commercial Developments.”



## **Appendix 10 – Open Spaces and Landscaped Areas TIC Specification**

Please refer to separate attachment:

“Fingal County Council Taking in Charge Specifications for Open Spaces and landscaped areas”

## **Appendix 11 – Safety File Requirements**

Please refer to separate attachment:

“Appendix 11 – Fingal County Council Safety File Requirements”

## **Appendix 12 – Sample TIC Drawing**

Please refer to separate attachment:

“Appendix 12 – Fingal County Council Sample TIC Drawing”

## **Appendix 13 – Estate Sign Specification**

Please refer to separate attachment:

“Appendix 13 – Fingal County Council Safety Estate Sign Specification”

## **Appendix 14 – Fingal County Council Green/Blue Infrastructure**

Please refer to separate attachment:

“Appendix 14 – Fingal County Council Green/Blue Infrastructure”

## **Appendix 15 –Plebiscite Request for TIC form**

Please refer to separate attachment:

“Appendix 15 – Plebiscite request for TIC form”