National Highways

Third-Party Works

Protocol for Delivering Third-Party Agreements under Section 278, 6 and 8 of Highways Act 1980

Date: 27/10/2026

Protocol to Support the Delivery of Third-Party Schemes

National Highways is a strategic highway company as defined by the Infrastructure Act 2015. The company is responsible through a licence issued by the Secretary of State for Transport for operating, maintaining and improving the Strategic Road Network (SRN) in England. You can view a map of the roads which are our responsibility on the National Highways website.

This protocol relates to situations where a third-party wishes to engage with National Highways to deliver highway works. Our aim is to work collaboratively with third-parties through an efficient and consistent approach to assure safety and quality of works.

This protocol is a companion document to *"Planning for the Future*" the current version of which is available on National Highways website.

This protocol is not intended to be used as a guide on any contributions that may be required from a third-party towards the delivery of infrastructure by National Highways.

Contents

1. Overview of Section 278 and Section 6 agreements....4
2. Principles of Section 278 agreements....5
3. Securing a third-party agreement....6
4. Roles of parties to the Section 278/Section 6 process....8
5. Commuted lump sum for additional and ongoing maintenance costs....9
6. Costs under Part I of the Land and Compensation Act 1973....9
7. Resolution of disputes and delays....10
8. Monitoring and review of the process....11
10. Process flow chart of the agreement process....12
11. Appendices....22

A. Appendix A - Legal Agreement Questionnaire....22

B Appendix B Glossary - Abbreviations and clarification of terms used....22

C. Appendix C - Regional Contact Details....24

D. Appendix D - Utilities....25

12. Doument control....26
13. Reviewer list....26
14. Revision history....26

1. Overview of Section 278 and Section 6/8 agreements

1.1. Where a third-party seeks to make or to fund changes to the SRN, they are required to enter into an agreement under a Section 278 of the Highways Act 1980 (as amended), referred to as "a Section 278 agreement" (unless we consider an agreement in another format is more appropriate). This is a legal agreement between a highway authority and a third-party for that third-party to either pay for, or make alterations, or improvements to the highway itself. A Section 6/8 agreement is an agreement between National Highways and a local highway authority which empowers the local highway authority to carry out works on a trunk road.

1.2. Schemes identified as Section 278 agreements may be promoted by a single third-party or several third-parties working together. For clarity, we refer in this document to the 'third-party' which may apply to either scenario. References to the third-party include the third-party's advisors, representatives and consultants. References to "National Highways" include our service providers, agents, contractors and consultants.

1.3. A third-party may enter into Section 278 agreements with local highway authorities for schemes on local roads or with National Highways for schemes on the SRN. If a scheme is to be carried out on both the SRN and the local highway network in addition to a section 278 agreement, the two authorities may need to enter into a separate agreement with each other which the third-party may not be party to; the two agreements will need to be drawn up together. We will advise the third-party if such an agreement is necessary; this would avoid the need for the third-party to enter into two separate s.278 agreements with National Highways and the local highway authority. Where works delivery requires more rounded co-ordination, we will consider including local highway authorities in meetings.

1.4. All Section 278 and Section 6/8 agreements are based on National Highways standard agreement templates, which are then populated for the individual works / schemes. We do not accept amendments to our template unless there is legal justification to do so. National Highways reserves the right to make changes to the terms and conditions of this template agreement as they require. The agreement will interact with wider design, safety and contractual processes.

1.5. This protocol does not aim to comprehensively detail each process, but rather to set out our general process and what the third-party can expect from us. Our Project Managers (see 2.7 for role detail) are experienced in delivering Section 278 agreements and Section 6/8 agreements and will recommend the specific requirements of a particular scheme.

1.6. For Section 278 / Section 6/8 agreements entered into for schemes on the SRN we are required to ensure that the full cost of administering, designing and implementing the scheme is paid for by the third-party. The scheme costs may also include a Commuted Lump Sum (CLS) payment to meet the cost of any increase in future maintenance.

1.7. There are other legal agreements required by works to the SRN, which may be appropriate to discuss. This could include works relating drainage in private land, landscape maintenance, legal and safety issues. New Roads and Street Works Act

1991 (NRSWA), supported by relevant Regulations and Codes of Practice, provides a legislative framework for street works by undertakers (including utility companies) and works for road purposes – to the extent that these must be co-ordinated by street authorities.

2. Principles of Section 278 and Section 6/8 agreements

2.1. We will not enter into a third-party agreement until planning permission for the development is in place, any relevant conditions have been satisfactorily discharged and statutory powers to construct the scheme (outside of those National Highways may need to delegate) have been obtained if applicable.

2.2. Where a new access to the SRN is required for a development, Section 175B of the Highways Act 1980 states the consent of National Highways is required. This consent will be provided only if the provision of the new access complies with the Government's Policy document: Strategic road network and the delivery of sustainable development (DfT Circular 01/2022) and the terms of National Highways' licence. This is normally dealt with at the time of National Highways' substantive response to a planning application consultation.

2.3. It is the third-party's responsibility to ensure that they have sufficient funding to cover the whole costs of the scheme.

2.4. Circular 01/2022 requires that mitigation schemes are designed in accordance with our design standards set out in Design Manual for Roads and Bridges (DMRB). Only if there are instances where a justifiable case can be made why a particular requirement from the DMRB cannot be met, a designer shall apply for a scheme specific departure from that standard. This involves making a safety-based case on why works that do not meet the requirements should be allowed. Such applications are reviewed by National Highways' Safety, Engineering and Standards specialists. They will only be approved if the application demonstrates that it is appropriate to do so. If there are departures identified prior to planning permission being applied for, we would expect provisional agreement to be gained and recorded on internal systems such as Departure Approval System (DAS). Otherwise, the third-party takes forward a risk that they gain planning permission, but their highway mitigation works cannot be delivered. This will normally be during the process of preparing the detailed design. However, we expect third-parties to identify significant departures, particularly any which are critical to the deliverability of the mitigation, and to obtain our approval in principle to them prior to planning consent being granted.

2.5. The principle of any identified mitigation scheme will be valid for as long as the planning permission remains capable of implementation. Where an application is made to vary the planning permission, or the planning permission lapses and a new planning application is submitted we will review any proposed mitigation scheme to ensure it is still suitable and where necessary, we will seek to secure an amended scheme to meet current standards and network requirements.

2.6. Third-parties are encouraged to engage in an early dialogue with us to ensure a smooth transition from planning the scheme to implementation. We seek to be an effective

business partner and provide value for money in our business dealings with the development community. We are committed to ensuring that engagement with the development process is undertaken in a timely and constructive manner.

2.7. The primary role of the Project Manager will be filled by a named individual who will be the main point of contact for all matters related to obtaining a third-party agreement. However, the Project Manager for the delivery of the scheme will generally be different from the Project Manager or lead contact that dealt with the scheme prior to planning permission being granted.

2.8. It is important that both we and the third-party are aware of how an agreement is progressing at all stages, both in terms of time and cost.

2.9. Any money which has been paid to National Highways and has not been spent as agreed will be repaid to the third-party once the defects period for the scheme has concluded. If a scheme is abandoned, there may be abortive costs incurred to start physical works.

3. Securing a third-party agreement

3.1. Once planning permission has been secured, there are seven steps in the implementation of highways mitigation schemes; A flow chart showing the four key steps in the process is included at section 10.

3.2. Following commencement of pre-agreement discussions, the scheme will be managed to delivery by our nominated Project Manager. When we are contacted by the third-party to begin the process, we will give the name and contact details of the Project Manager, we will also issue documentation to seek relevant information.

3.3. We may hold a pre-agreement meeting to discuss the scheme. The meeting will be led by our Project Manager for the scheme and include technical support as necessary. At the meeting, some or all the following may be discussed:

- The form of agreement to be used.
- How the scheme is to be procured.
- The timescale which the third-party is working to.
- Who will undertake the detailed design of the scheme.
- Who will undertake the construction of the scheme.
- Any other preliminary requirements

3.4. Before the third-party agreement can be signed and procurement of works can begin information will need to be prepared, checked and accepted. This will include but is not limited to:

- Contact information for the third-party's agents, consultants, legal and financial representatives.
- A description of the works to be undertaken.
- A detailed design including general arrangement drawings of the works.
- Details of any works to protect or move utility company equipment.

- A cost estimate to complete the scheme (including utility company costs) based on suitable professional advice or obtained through an open tender exercise, to allow the amount payable to us be calculated.
- The level of CLS payment towards future maintenance costs of additional highways assets created through the scheme, Calculated in accordance with current guidance. This includes separate CLS calculation methods applicable to Design, Build, Finance and Operate (DBFO).
- Relevant walking, cycling and horse-riding assessment and reviews, and Road Safety Audits (RSA) completed in accordance with DMRB guidance as set out in GG 142 *Walking, Cycling and Horse-Riding Assessment and Review* and GG 119 *RSA.*
- Approval and confirmation of all departures from standards, including any identified during detailed design and those which we previously approved or agreed to the principle of prior to grant of planning permission.
- Land requirements for proposed new highway works that are outside the highway boundary and/or not in National Highways' control; this will require title checks. IMPORTANT: Please note if a land transfer or easement is required, these must be entered into before start of works and should be considered in your programme
- Requirements for any Statutory Orders/procedures. Please note any orders will need to come into effect before start of works, and this should be considered in your programme
- Appropriate risk assessments (including safety risk assessment in accordance with *GG 104 Requirements for Safety Risk Assessment*) and risk management plan.
- Valuation for Part 1 claims.
- Approval of warranties and confirmation that the legal agreement has been reviewed and agreed prior to execution.
- Approval of the contractor's contract
- Bond has been secured (bond required for all works carried out by or funded by third-parties)
- All necessary funding / costs should be in place with National Highways. If the account is in debt the legal agreement will not be put in place.

3.5. The design and cost estimates may be prepared by us or by the third-party and checked by us. However, whichever approach is taken our actual costs of preparing or checking the information will need to be met by the third-party before we can undertake or commission any work.

3.6. Design of all schemes, including works to protect or move utility company equipment must comply with DMRB standards subject to any technical approval in writing from us for specific departures from standards. For many schemes the diversion of statutory equipment will be needed. Acceptance of designs will not be granted until formal survey searches have been performed and either:

- Any apparatus has been moved outside of the footprint of the works; or
- If the apparatus is to be moved or protected during the works, the measures have been approved by both the utility and National Highways. In this circumstance, the third-party will need to include the diversion on their works programme.

3.7. There may be a need to address environmental impacts as part of the scheme preparation, particularly if these have not been fully addressed at the planning stage.

As a statutory highway authority, National Highways has many obligations relating to environmental matters. Any that apply to National Highways improvement works also apply to third-party funded works. National Highways will work with you during the detailed design preparation and assurance phases to ensure any environmental obligations generated by the works proposal are identified and resolved. This must be done before the legal agreement will be entered into. Examples of items that might be required or have an effect on improvement works, amongst many others are bird nesting season restrictions, bat surveys, badger surveys, noise surveys, HAWRAT (Highways Agency Water Risk Assessment Tool) assessments and a statutory or non-statutory environmental impact assessment (or associated notice of determination).

4. Roles of parties to the legal agreement process

4.1. The main parties to the agreement are the third-party and National Highways acting as the highway authority for the SRN. We will seek technical and legal input from our officers as required. Additionally, landowners and sureties may also be involved.

4.2. In locations where the SRN is managed on our behalf, by the DBFO companies, they will be involved in the delivery of works. The Project Manager will explain if there are any specific requirements for the scheme because of a DBFO company's involvement, which may include a different method of calculating any CLS for maintenance that may be payable.

Role of the third-party

4.3. It is the responsibility of the third-party to provide information required by the Project Manager to ensure the scheme is developed and implemented effectively. The third-party should also ensure that they have in place the capacity to prepare or check the technical and legal information which will be prepared through the process.

4.4. The third-party and their consultants must ensure compliance with all aspects of the current Construction, Design and Management (CDM) Regulations. Where the third-party intends to do the works, depending on the details of the works, for the purposes of CDM the third-party will fulfil the role of 'Client'. Given that there is more than one potential CDM client for each scheme, a written record should be made of which party takes on the responsibility. It is National Highways' standard position that the third-party is the CDM client throughout the life of the scheme.

4.5. The third-party must pay funds in accordance with the agreement and ensure that all land required to deliver the scheme is conveyed to National Highways before the start of works. Subsequent payments of funds where applicable will be made in accordance with the agreement.

Role of National Highways

4.6. We will work in a collaborative manner with the third-party to secure a legal agreement. We may appoint a consultant or contractor to act on our behalf, but the ultimate authority to issue approvals remains with our Project Manager. There may be a need

to address environmental impacts as part of the scheme preparation, particularly if these have not been fully addressed at the planning stage. As a statutory highway authority, National Highways has many obligations relating to environmental matters. Any that apply to National Highways improvement works also apply to third-party funded works. National Highways will work with you during the detailed design preparation and assurance phases to ensure any environmental obligations generated by the works proposal are identified and resolved.

4.7. We will provide a regular and reasonable account of spending and work undertaken on the scheme and future forecasts as may be requested by the third-party.

5. Commuted Lump Sum (CLS) for additional and ongoing maintenance costs

5.1. The CLS is calculated based on the additional cost of maintaining the network created or improved because of the works for a period of 60 years. The assessment period of 60 years is consistent with HM treasury's Green Book and ADEPT guidance, *Commuted Sums for Infrastructure Assets*, produced for DfT in 2009. This occurs either where a new area of network is created, such as a widened carriageway, or where equipment such as new signs or signals is installed on the existing network. However, a CLS for maintenance is not payable where the cost of maintaining the improved asset would be the same as or less than the cost of maintaining the existing asset.

5.2. The amount of CLS payable is calculated based on current maintenance requirements. A requirement to pay a CLS will be set out in the legal agreement, and an estimate of the sum will be provided before the agreement is entered into. The third-party will pay the funds to us in accordance with the agreement.

5.3. For sections of the network that are subject to a DBFO contract, the additional ongoing costs will comprise any compensation events payable under the DBFO contract until the end of the contract and the additional maintenance costs from the end of the contract for the remainder of the 60-year period.

6. Costs under Part I of the Land and Compensation Act 1973

6.1. Under Part I of the *Land Compensation Act 1973 (LCA),* compensation can be claimed by people who own and occupy property that has been reduced in value by more than £50 by physical factors (e.g. noise, fumes and artificial lighting) caused by the use of a new or altered road. All costs arising from claims under Part I LCA are the responsibility of the third-party.

6.2. Prior to the legal agreement being signed and where we believe there may be scope for claims to be made, we will appoint a valuer and work with the third-party to provide information so that they can assess the likelihood of claims being made. We have a dedicated team responsible for administering claims made under Part I of LCA, who will support the Project Manager.

6.3. Claims made under Part I of LCA must be made within seven years of the relevant date, which is usually the opening of the works to traffic. Depending on the potential for claims identified by the valuer, we may retain some or all the bond or cash deposit provided by the third-party to cover the cost of paying claims. – assessment made by lands team.

6.4. The National Highways Project Manager will refer to the Third-party Projects (3PP) Finance Manual.

7. Resolution of disputes and delays

7.1. If either party is concerned that matters are unlikely to be resolved within timescales agreed at the pre-agreement meeting, they should escalate the problem to try and resolve the issues. In such instances the Project Manager should contact the third-party, or the third-party should contact our Operations Directorate, whose details can be found in Appendix C.

8. Time considerations

8.1. Time considerations will be fully explored as part of the pre-agreement discussions, and it is important that third-parties understand and take into consideration the range of factors which can impact on the delivery of the third-party schemes such as the time required to establish the agreement, statutory procedures, tendering process, land transfers and environmental constraints.

8.2. Once funding is in place, and any legal fees required for external solicitors are in place, the agreement can be drafted and the background information prepared. Timescales and associated matters will be discussed as part of the initial meeting. Drafting of the agreement and completing the detailed design are separate processes that can run concurrently to minimise delay.

8.3. The construction of the scheme may require Road/Traffic Orders under the Highways Act 1980 and/or Traffic Management Act 1984. Where applicable, permanent and temporary Traffic Regulation Orders made under the Road Traffic Regulation Act 1984, other Orders required under the Highways Act 1980 and road-space bookings are needed to be in place before any construction work can start on site.

8.4. If a land transfer or easement is required to National Highways as part of the scheme, this must be entered into before the start of works on site. The draft transfer and easement can be negotiated simultaneous with the legal agreement for the works. National Highways must also be satisfied with the title before entering into the section 278 agreement or section 6/8 agreement. Timescales to agree an easement and land transfer should be considered when agreeing a programme for works.

8.5. Currently, public procurement in England must comply with World Trade Organisation's Government Procurement (WTOGP). Where the works are being funded by public funding by 50% or more of the cost of the scheme *WTOGP* may apply if the threshold is met. One option is for a third-party to request that the works are

priced through an available National Highways Framework Contract. The alternative for third-parties in this position is to request us to separately advertise their scheme through the WTOGP process.

9. Monitoring and review of the process

9.1. This protocol is a live document that will be updated as and when changes in policy relevant to the above process occur. Feedback on the contents, helpfulness and application of the document is very much welcomed from third-parties and their representatives and should be forwarded to the relevant regional Project Manager.

10. Process flow chart of the agreement process

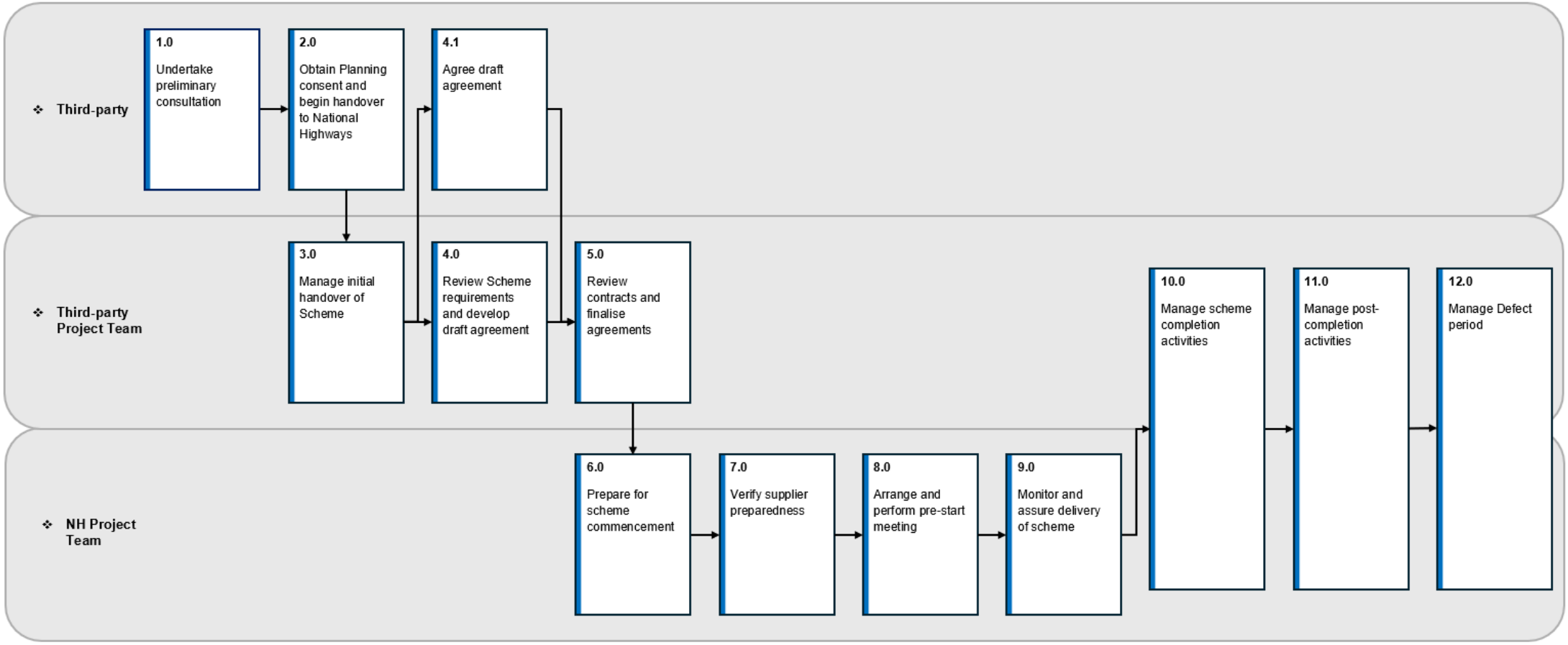


Figure 1: Manage Regional Third-party Works on the Strategic Road Network

Activity Description

Activity 1.0 Undertake preliminary consultation
Roles: Third-party
a) Engage with appropriate stakeholders to develop planning application. b) Undertake transport assessment. **Note:** A transport assessment is a comprehensive and systematic process that sets out transport issues relating to a proposed development. **Link:** Gov.uk Travel Plans, Transport Assessments and Statements Guidance c) Agree strategic road network mitigation in principle.

Activity 2.0 Obtain Planning consent and begin handover to National Highways
Roles: Third-party
a) Obtain planning consent, Section 106 agreement, typically including a general arrangement drawing. **Note:** Section 106 agreements are between the third-party and Local Planning Authority (LPA) and/or Local Highway Authority (LHA). b) Agree strategic road network mitigation condition. c) Engage with National Highways Third-Party Project Team to begin formal handover of scheme, seek guidance and ensure all necessary considerations are met. d) Ensure the Client is defined in line with the Construction (Design and Management) Regulations 2015 regulations (CDM). **Link:** Construction (Design and Management) Regulations 2015 regulations e) Determine land transfer requirements and ensure land meets National Highways requirements. **Note:** It is important that all relevant ownership is clearly established and that any required easements are determined for e.g. access during works.

Activity 3.0 Manage initial handover of Scheme
Roles: Third-party Project Team
a) Where the handover of the scheme is from the National Highways Spatial Planning Team as per the third-party scheme handover process, proceed to Activity 3.0d (*internal process*). b) Where the handover of the scheme is from the third-party, issue the agreement questionnaire for return by the third-party. c) Once the agreement questionnaire has been completed and returned, arrange and undertake pre-agreement meeting. A suggested agenda can be found within the Third-Party Works Protocol document (section 3.3); this ensures key items are considered. d) Agree a provisional scope and estimated fees based on the National Highways Third-Party Projects (3PP) Finance Manual. e) Create Scheme Project Identification Number (PIN) and send out the invoice for the initial deposit.

Note: Guidance on what this initial deposit will consist of can be found in the Third-Party Projects (3PP) Finance Manual.

f) Once the initial deposit is received, produce the business case and seek Investment Decision Committee (IDC) approval as per the IDC end-to-end process manual.

g) Upon receipt of National Highways admin fee and initial deposit, set the project PIN to funded.

h) If required, send out further invoice for National Highways admin fee and external costs.
Note: Invoiced fees/costs can vary depending upon regional approach and scheme complexity.

i) Engage with supplier regarding design. Advise supplier on key stakeholders to consult e.g. Asset Leads; Safety, Engineering and Standards (SES); National Highways Designers; any National Highways intermediary for design services supplier; etc.

j) Where the third-party is undertaking design, review initial design and consult Asset Leads, as appropriate, to inform the detailed design and ensure conformance with the Design Manual for Roads and Bridges (DMRB) and any Road Safety Audit and Walking, Cycling and Horse-Riding Assessment and Review (WCHAR) requirement has been undertaken. If required, produce a task brief for design services supplier to produce a quote to review the detailed design.
Link: Design Manual for Roads and Bridges

k) Where National Highways is undertaking design, produce or commission a design task brief and approach design services supplier for quote including survey requirements, etc

Activity 4.0 Review Scheme requirements and develop draft agreement
Roles: Third-party Project Team

a) Confirm design meets DMRB requirements and includes requirements for Traffic Regulation Orders (TTRO, PTRO, etc.), Land Transfer, Maintenance Boundaries, all departures from standards have been approved, etc.
Note: The review of the design may be undertaken by a suitably qualified National Highways resource or using an appropriate design services supplier.

b) Where there is a requirement for land transfer, investigate ownership, condition and any identified easements and instruct the Property and Compensation Team.
Note: The Property and Compensation Team will instruct their supplier to deal with the land transfer.

c) Instruct Legal Services to produce draft Section 278, mini-Section 278 or Section 6 agreement, as appropriate along with any bond agreements and warranties if applicable.
Note: Mini-Section 278, Section 278 part 2 and Section 6 agreements are produced by National Highways Legal Services. Section 278-part 4/5 are produced by external lawyers, overseen by Legal Services.

d) If required, ensure that any requirement for Highways Act orders (including sections

10 and 14 orders) has been identified and progressed.
Note: Third-parties, together with their legal advisers, should consider at an early stage whether any Highways Act orders or other statutory processes are required to facilitate the scheme. National Highways Legal Services should be consulted where such orders may affect National Highways' interests or where National Highways is required to promote or participate in the relevant statutory process.
Note: This step may be undertaken by the Third-party using their Legal Provider

e) Seek an estimated cost of construction from each supplier involved.
f) Review all costs, including a consideration for risk.
g) Update business case and seek IDC approval, if required.
h) Once IDC approval is received or where is not required, undertake any additional invoicing required.
i) Where schemes include structures, confirm that a party to undertake Works Examiner role has been identified / nominated.

Activity 4.1 Agree draft agreement

Roles: Third-party

a) Collaborate with National Highways to ensure all information is supplied to develop the agreement.
b) Review and agree Highways Act agreement and any bond agreement and warranties if applicable.
c) If required, engage with Legal Advisor to agree draft Highways Act Orders and agree timings for the making of the orders (Section 14, etc.).
Note: some Highways Act Orders may be required before commencement of works.

Activity 5.0 Review contracts and finalise agreements

Roles: Third-party Project Team

a) Instruct National Highways Legal Advisor or National Highways Procurement Team to review the contractual documentation.
Note: For Section 278 agreements, this review would be undertaken by our external legal provider. For Section 6 and Mini section 278 agreements this review would be undertaken by the National Highways Procurement Team, with support as required from National Highways Legal Team.
b) Instruct the Legal Advisor to complete the final legal agreement, warranty and bonds (where appropriate) and execute.
Note: At this point the third-party is to deposit sureties or provide bond as per the draft agreement.
c) Where required, ensure any relevant land transfer has been completed.
d) Issue formal authorisation letter.
e) Where the scheme is to be delivered by the third-party, perform only the relevant tasks within Activities 6.0 to 9.0.
f) Where the scheme is to be delivered by National Highways, proceed to Activity 6.0.

Activity 6.0 Prepare for scheme commencement
Roles: NH Project Team
a) Brief the Site Supervisor on key project information. b) Consider any Construction (Design and Management) Regulations (CDM) requirements and guidance at this stage. c) Undertake a review of the construction phase plan supplied by the Principal Contractor (PC). Complete the phase plan review form to perform and document the review, share with Principal Contractor. d) If required, ensure all works inspection and testing has been identified. e) If required, undertake a site visit with contractors and the Construction Manager. f) Ensure a Clause 31 works order programme is in place for each contractor and have been accepted via CEMAR. This should be supplied within 2 weeks of the issuing of works order(s). g) Ensure The Principal Contractor has supplied an acceptable scheme programme. This should be supplied within 2 weeks of the issuing of works order(s). **Note**: This is not a contract clause requirement, this is outlined in the scheme scope h) Ensure Traffic Management (TM) contractor has updated the network occupancy for the scheme. i) Ensure any arrangements for abnormal loads have been confirmed. j) If required, confirm that any Temporary Traffic Regulation Orders (TTRO) and/or route network orders have been successfully arranged and implemented. k) Review and update the relevant risk register, as appropriate. Ensure any other relevant risks or issues identified are added to the appropriate team risk register and escalated to the divisional risk register as required. l) Ensure all scheme communication requirements have been undertaken.

Activity 7.0 Verify supplier preparedness
Roles: NH Project Team
a) If required, verify that the HSE F10 has been updated and reflects the scheme. b) If one is required under the scope of the works, review and agree the Construction Environmental Management Plan (CEMP) supplied by the Principal Contractor. c) If required, issue the Delegation of Powers Letter to any relevant suppliers. d) Issue the Authorisation to Start Work Letter.

Activity 8.0 Arrange and perform pre-start meeting
Roles: NH Project Team
a) Arrange and conduct a pre-start meeting with all parties who will be involved in the construction of the scheme. b) Verify that the mobilisation activities required at this point are complete and everybody is content that they have the information required to proceed to construction. If any concerns or issues are raised at this point, the Project Manager

(PM)/Construction Assurance Manager (CAM) should record them on the risk register and address them accordingly.

c) Ensure the Principal Contractor has completed and supplied a key contact list for all parties involved in the scheme.

Activity 9.0 Monitor and assure delivery of scheme

Roles: NH Project Team

a) Ensure the Principal Contractor is arranging and undertaking construction progress meetings at an appropriate frequency given the complexity and duration of the scheme.
   Note: To ensure the Principal Contractor is capturing the required information there is a progress meeting agenda template that can be shared with them to use or that can be used to validate their own meeting agenda.
b) If required, issue Project/Service Manager Instructions.
c) Collate and manage all necessary commercial notifications and information e.g. acceptances, early warning notices and compensation events, etc. in line with the requirements of the Contract Control Framework (CCF).
d) Ensure that suppliers are submitting any health and safety notifications e.g. near miss and accident reporting, and pass information to Health and Safety (H&S) Team in line with GG128.
e) Regularly review risks, update the relevant risk register as required and escalate to regional risk register, if appropriate.
f) Ensure any inspection and testing requirements during works are performed and recorded.
g) As and when required, ensure the scheme Environmental Impact Plan (EIP) is updated.
h) Oversee and assure the works are being performed in line with CDM requirements.
i) Ensure that the construction phase plan is being updated by the Principal Contractor during works.
j) Provide technical assurance that the work is of an acceptable quality with support, as required, from asset specialists in Planning and Development. For relevant structures see also the Technical Assurance Framework for Structures Assets guidance
k) Manage the technical approval of construction activities on site that are subject to technical approval processes laid out in DMRB.
   Note: SES Advisors are available to provide support to the Project Manager to make sure these activities are correctly undertaken and supervised, examined or certified, especially if there are changes to agreed designs. Also, some temporary works required to facilitate construction may require formal technical approval.
l) Ensure any defects identified are managed following the Managing Scheme Defects During Construction process.
m) Ensure any non-conformities identified are logged and resolved in-line with the Manage Non-Conformities process.

n) Monitor key aspects of the scheme such as cost (including forecasts and accruals), programme adherence, quality, safety and deliverables.
o) On a monthly basis review accruals and forecasts to ascertain if further funding is required on a scheme. If required, undertake change control to either extend the budget or adjust the scope of the scheme and raise any required invoices as soon as this is realised, including a reasonable allowance for contingency and to cover known and un-costed risks. Any changes will require agreement with the third-party.
p) If there are any significant change that impacts on safety risk, review the GG 104 safety risk assessment and amend/update as required, including any plan for monitoring post construction operations. Consult with the Principal Contractor where required.
q) If required, undertake site safety inspections in line with the Health, Safety and Wellbeing Management System.
r) Ensure network occupancy requirements are met throughout the works, including all notifications and changes.
s) Ensure all scheme correspondence is managed correctly.
t) If required, manage any temporary works undertaken as part of the works.
u) Obtain monthly financial reports in line with CCF requirements.
v) Manage technical queries, including materials approvals requests, received from the Principal Contractor, contractors and/or National Highways staff, coordinating the review and response from the Principal Designer (PD).
w) If required, undertake a risk reduction meeting.
Note: Where the contractor's cost or programme are becoming unacceptable to National Highways, a risk reduction meeting should be held with the aim of bringing progress back into line with tolerable levels. The Project Manager or Construction Assurance Manager will arrange this meeting and provide Service Manager Instructions to the contractor on the basis of it. Risk reduction meetings can also take place as a result of National Highways action – for instance, if local priorities change and the contractor's access to road space is limited, this could result in cost increases or programme delays.
x) If required, verify the scheme construction programme is updated by the Principal Contractor.
y) If required for any additional services, prepare a work/task order brief to engage the relevant supplier.
z) If any requirement for technical approval is identified due to changes to the scheme, follow the relevant process.
Note: This only relates to National Highways designed works, where the Designer is a third-party consultant, they will manage technical approvals according to their own systems.
aa) If any requirement for a Temporary Traffic Regulation Order is identified due to changes to the scheme, follow the relevant process.
bb) If any changes to the scheme involve technology assets, update the technology demand forecast as required.

cc) If required, ensure any Walking, cycling and horse-riding assessment (WCHAR) is updated.

dd) Consider if any changes require a review of the asbestos information and any plans for any structures involved in the scheme to ensure any need for asbestos management is identified.

ee) Review requests for acceptance of any task/works order completion certificates submitted by suppliers, as they complete their activities on-site, and that the relevant supplier has submitted the required information to the Principal Contractor for health and safety file compilation. If approved, counter-sign the certificate and return to the supplier.

ff) Manage changes that occur as a result of unexpected events.
Note: Where an event causes a material change in the overall cost then change control will need to take place to either extend the budget or adjust the scope of the scheme. Any change to approved budgetary values will require third-party approval.
Note: Where the event cause a change in the scheme duration then change control will need to take place to either adjust the scope of the scheme or alter the regional programme. Any change to scheme duration will also require a modification request to be submitted through the Roadspace Booking Portal.

gg) Undertake assurance of works to ensure completed works meet the required standards.

hh) Review site reports and undertake any required actions.

ii) Obtain and review testing records.

jj) Submit reports and testing records to the relevant person(s) and assist with any queries.

kk) Report any health and safety concerns back to the Principal Contractor.

ll) Look for opportunities to accommodate Maintenance & Repair (M&R) activities during the scheme and coordinate with Service Delivery Team.

mm) If required, undertake a site inspection to verify works have been completed in line with the detailed design.

Activity 10.0 Manage scheme completion activities

Roles: Third-party Team, NH Project Team

a) If required, request that a stage 3 Road Safety Audit is performed.

b) Record efficiencies and update efficiencies log. If these cannot be validated at this point due to the complexity of doing so in some cases, they should be validated at the earliest opportunity. Any relevant Key Performance Indicator (KPI) related outputs should also be claimed against at this point.

c) If relevant, Undertake the appropriate stages of the Manage 3D Scheme Carbon process relating to the scheme.

d) If relevant, undertake the appropriate stages of the Manage 3D Scheme Biodiversity process relating to the scheme.

e) To ensure all key information has been collected, collated and stored in the correct folders, there are scheme completion checklists that can be used as a guide.

f) Issue the scheme completion certificate to all suppliers and the Principal Designer. NB: This should be issued on CEMAR via a general communication.
g) Where required, ensure construction compliance certificates are produced and signed off by the appropriate supplier and works examiner representative using the template found within the CG 300 – Technical approval of highway structures standard, appendix N and issued to SES.
h) Ensure the Principal Contractor submits all required health and safety information to the Principal Designer in-line with the Produce and Finalise the Scheme Health & Safety File process.
Note: The Produce and Finalise the Scheme Health & Safety File process may include the following, as relevant:

- Quality Information and Operation and Maintenance Information submitted by contractors.
- Quality Information and Operation and Maintenance Information submitted by Principal Contractor.
- Review of red line drawings supplied by the Principal Contractor to confirm accuracy and suitability.
- Submission of drawings to the asset management team for updating of databases.
- CD 622 Geotechnical Feedback report [schemes requiring geotechnical input only].
- Issuing of CG 300 Construction Compliance Certificates [structures schemes only].

i) Review requests for acceptance of any task/works order completion certificates
j) Review requests for acceptance of any task/works order completion certificates submitted by suppliers and that the relevant supplier has submitted the required information to the Principal Contractor for health and safety file compilation. If approved, counter-sign the certificate and return to the supplier.
k) Verify that any defects identified during the scheme have been corrected as per the Managing Scheme Defects during Construction process.

Activity 11.0 - Manage post-completion activities

Roles: Third-party Team, NH Project Team

a) If required, verify that the scheme outputs have been achieved and record KPI and output data. Outputs may be confirmed by the suppliers using the scheme output summary template.
Note: The Benefits Management process and manual should be applied.
b) If required, update the Customer & Equality Impact Assessment (CEIA) and submit to regional Equality, Diversity and Inclusivity (EDI) Leads for guidance on required actions.
c) Confirm that the health and safety file has been submitted and finalised.
d) Ensure the as-built drawings have been supplied, checked and filed correctly.
e) Undertake the Manage Hand-back of the Asset process which includes updating relevant asset databases.
f) If required, update the Maintenance Requirements Plan (MRP).

g) Review if the final scheme design has an impact on the network model and, if it does, then ensure all relevant information is collected, stored in appropriate SHARE folder and links added to the appropriate section of the Capital Delivery Management Tool (CDMT).
h) If required, ensure the appropriate asset databases are updated.
i) If required, ensure the C2 stat database has been updated.
j) If required, ensure any asbestos survey information is passed to the Asset Engineering Team so that the asbestos action plan and asset database can be updated.
k) If required, ensure the Environmental Information Plan is updated and finalised.
l) If required, ensure any outstanding actions from the stage 3 Road Safety Audit have been completed.
m) Issue completion certificate to third-party.
Note: Upon completion certificate issue, the works will enter the defects period.
n) Release appropriate bonds or sureties to third-party.
Note: release will be in accordance with the terms included in the section 278 agreement.
o) If required, process any outstanding scheme compensation events, etc. in line with the requirements of the Contract Control Framework (CCF).
p) Produce interim assessment (Commercial) 13 weeks after completion in line with the requirements of the Contract Control Framework (CCF).
q) If required, ensure the Walking, Cycling and Horse-Riding assessment (WCHAR) is updated.
r) If required, finalise works/task order certificates, if required ensure sign-off by the Construction Assurance Manager, and archive.
s) If required, manage final account invoice processing in line with the requirements of the Contract Control Framework (CCF).
t) If required, prepare a flood hotspot task completion certificate and pass to the Safety, Engineering and Standards Directorate (SES).
u) If required, close out any departures from standard at the post-determination stage within the Departure Approval System (DAS) and ensure any departure conditions were complied with.
v) Archive scheme information in the relevant SHARE folders.
w) Follow the Completion process within the National Highways Third-Party Projects (3PP) Finance Manual.

Activity 12.0 - Manage Defect period
Roles: Third-party Team, NH Project Team
a) Manage the Defect period in-line with the Manage Scheme Defect Maintenance Period process. b) If required, request that a stage 4 Road Safety Audit is performed once 12 months of collision data is available. c) Upon successful completion of the defect period and issue of the final certificate, release appropriate bonds or sureties to the third-party. **Note:** release will be in accordance with the terms included in the section 278 agreement. The final bond or surety will be released after 7 years, subject to any claims made against it. d) Produce the final account in accordance with the Third-party Projects (3PP) Finance Manual.

11. Appendices

The below appendices provide some of the tools or information which will assist the third-party to understand and participate in the process.

- Appendix A - Legal Agreement Questionnaire
- Appendix B - Acronyms and Glossary
- Appendix C - Contact Details
- Appendix D Utilities

Appendix A - Legal Agreement Questionnaire

The legal agreement questionnaire will be issued by National Highways together with general introductory information following first contact or the questionnaire can be requested from the regional contact (Appendix C).

(This form may also be used by local authorities for providing information in support of applications).

Appendix B Glossary - Abbreviations and clarification of terms used

CDM - Construction (Design & Management) Regulations.

CLS - Commuted lump sum. Money collected by National Highways to cover the cost of maintaining additional network asset created under a third-party works scheme.

Third-party - The term third-party is used throughout this document to describe the party or parties who promote works on our network and provide the necessary funding including householders, developer's and Local highway Authorities etc.

DfT - Department for Transport.

DBFO - Design Build Finance and Operate. These are roads which make up part of the strategic road network which have been built or improved under private finance initiative contracts. For any third-party scheme involving a DBFO road, the DBFO company as the operator of the road must be involved from the outset.

DMRB - Design Manual for Roads and Bridges. This sets out our design standards for new and improved parts of the strategic road network.

HAWRAT - Highways Agency Water Risk Assessment Tool

LCA - Land and Compensation Act 1973.

WTOGP - World Trade Organisation's Government Procurement. Official Journal of the European Union. Invitations to tender for public works over a certain value are required to be published in WTOGP.

RSA - Road Safety Audit. These are a check on the safety of a design or scheme carried out qualified people independent from the designer and contractor. They are undertaken at 4 stages:

- Stage 1: Preliminary design
- Stage 2: Detailed design
- Stage 3: Completion of construction
- Stage 4: Once 12 months of validated collision data is available

Our standard for RSA is set out in DMRB GG119.

Section 4 agreement - An agreement under Section 4 of the Highways Act 1980 (as amended). This is an agreement between us and a Local Highway Authority to enable us to undertake works on their network which is the operational and maintenance responsibility of the Local Authority.

Section 6 agreement - An agreement under Section 6 of the Highways Act 1980 (as amended). This is an agreement between us and a Local Highway Authority to enable the Local Highway Authority to undertake works on the network which is our operational and maintenance responsibility. New asset created under a Section 6 agreement is subject to the same requirements for the payment of CLS for maintenance as for Section 278 agreements.

SRN - Strategic Road Network in England. The SRN is the network of motorways and roads operated and managed by National Highways through its licence as a Strategic Highway Company issues by the Secretary of State for Transport.

TWA – Transport and Works Act 1991

WCHAR - Walking, Cycling and Horse-Riding Assessment and Review (GG142) This document contains requirements for the provision of Walking, Cycling & Horse-Riding Assessment and Review on the motorway and All-Purpose Trunk Road (APTR) network. It forms part of the Design Manual for Road and Bridges.

Appendix C - Regional Contact Details

Operationally our business operates in six regions. Enquiries about potential third-party schemes should therefore be directed to the appropriate team. Where a development is located across Local Authority boundaries, in the first instance, the contact should be the Operations Directorate Asset Development Team for the lead authority.

Please contact:

Region	Email
East	Operations East Third-Party Schemes
Midlands	Midlands.ThirdPartyWorks@nationalhighways.co.uk
North West	NWthirdpartyschemes@nationalhighways.co.uk
South East	adela.monteslopez@nationalhighways.co.uk
South West	ThirdpartyworksSWarea@nationalhighways.co.uk
Yorkshire and North East	Paul.Thomas@highwaysengland.co.uk

Appendix D - Utilities – Trenchless Construction methods, for example Horizontal Directional Drilling (HDD)

This guidance covers permanent and physical third-party agreement works schemes delivered under the Highways Act 1980. There is separate guidance for works undertaken via New Roads and Street Works Act 1991[1].

- Section 50 licence allows a non-statutory undertaker (member of the public or organisations who have no statutory right to install apparatus) to install apparatus under, over, across, along or upon the public highway.

- Under Section 61 of the New Roads and Street Works Act 1991 (NRSWA), National Highways may grant consent for the placing of apparatus by an undertaker on a protected street. Motorways and any other road designated as such are protected streets.

Trenchless construction is the default method for the installation of services crossing below the SRN. The need to obtain licensing/consent for these works is covered under Section 50 and Section 61 of the New Roads and Street Works Act 1991[1]. Statutory Authorities (e.g. Statutory Water Authorities, Statutory Electricity Authorities, Statutory Telecom Authorities, Statutory Gas Authorities) do not need a Section 50 licence for work they have a statutory right to carry out. Private Authorities or third-party operators do require a Section 50 licence.

In addition, all trenchless crossings below the National Highways SRN have geotechnical risk management procedures similar to those for any third-party works. To follow to obtain approval for this type of work. (See hyperlink below)

Easements may also be required to leave equipment within National Highways land.

- HDD S50 Procedure doc SES Guidance Notes for Horizontal Directional Drilling and other Trenchless Installations. SES document from 2008.

- For more information see the Design Manual for Roads and Bridges (DMRB) standard which sets out the geotechnical certification procedure is CD 622, Managing Geotechnical Risk[1].

[1] *Design Manual for Roads and Bridges (DMRB) procedure CD 622 'Managing Geotechnical Risk' standard which defines National Highways geotechnical certification requirements*

[1] New Roads and Street Works Act 1991 - Legislation.gov.uk

12. Document control

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14. Reviewer list

Name	Role
Third-Party Agreements Steering Group	Across National Highways

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