



Statutory Undertaker —CDM Arrangement Guidance

Guidance material explaining CDM Regulations 2015 duties with regards to the undertaking of statutory undertaker works on National Highway schemes.

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Statutory Undertaker CDM Arrangement Guidance

Information on CDM duties in relation to Statutory Undertaker diversions on National Highway schemes.

Overview—Arrangement Scenarios

Note—Formal Communication

Once the desired arrangement has been selected by the integrated project team, **formal communication must be carried out**, to ensure the project are compliant with the CDM Regulations 2015 and all parties understand the duty that is required of them.

Notes on Applicability

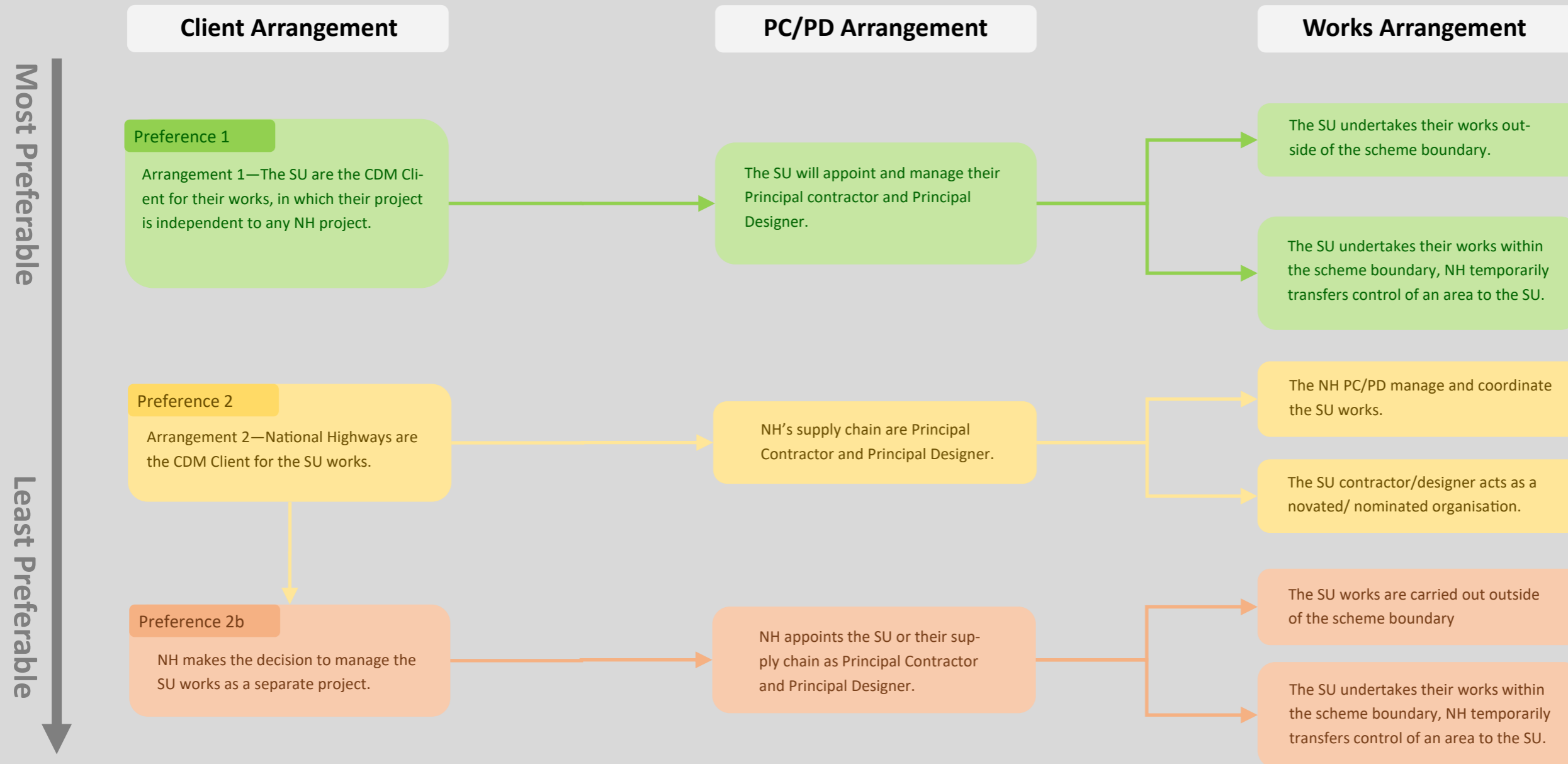
Statutory Undertakers operate a range of utility assets that often run along or across existing National Highway assets, diversionary works are often required to eliminate risks by removing the utility assets from the construction corridor.

The purpose of this guidance is to outline the various project arrangements available in relation to Statutory Undertaker works and to outline the order of preference of those arrangements. The arrangement chosen for the project will direct who will undertake the CDM Client role. Both parties will have duties under CDM through all arrangements, the way in which these are carried out will vary through each arrangement.

The applicability of each arrangement will need to be assessed on a case by case basis on the merits of the diversionary works in question. In which this process should take place as early as possible in the project lifecycle.

The purpose of this document is to provide guidance on the arrangements and their applicability. It is not meant as a definitive description of CDM duties and should such descriptions be required, please use the HSE guidance notes provided on their website.

CDM Project Arrangements—Arrangements for managing SU works



Note: A project arrangement can comprise of one or both of the associated works arrangements, i.e. their can be SU works both inside and outside the project boundary on any given arrangement.

Preference 1—SU Undertaking CDM Client Duties

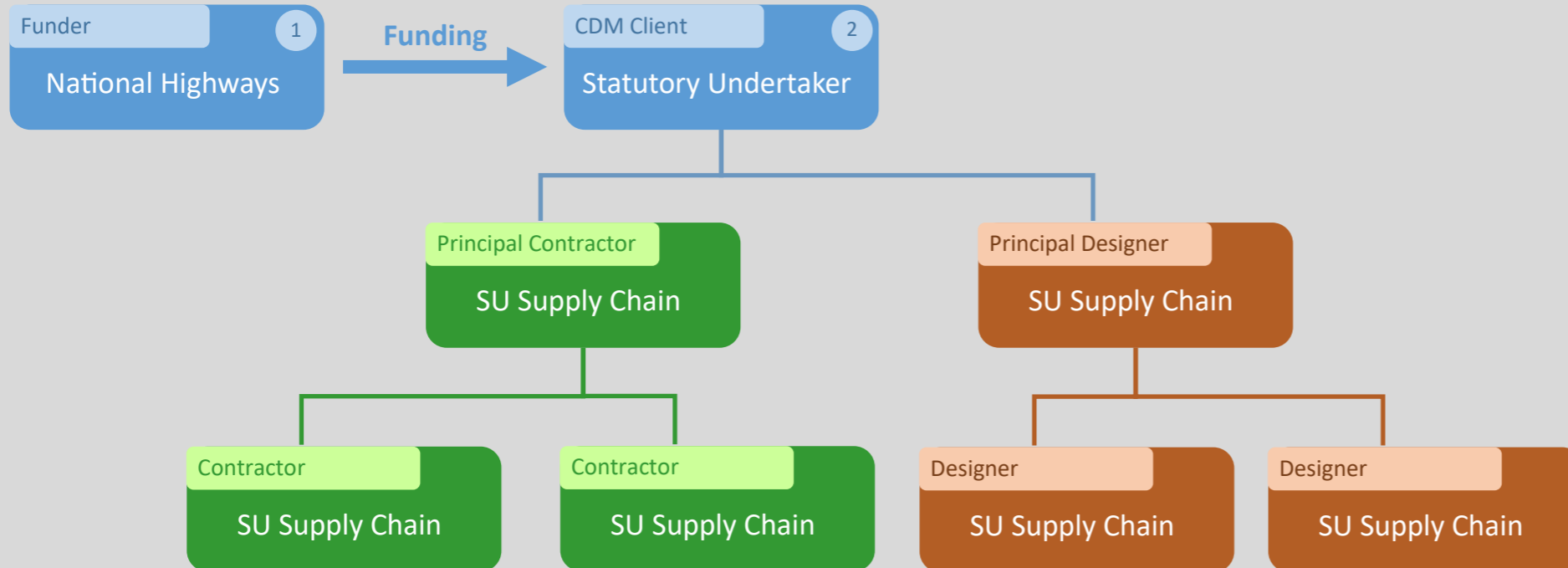
Notes on Applicability

This arrangement is the preferred arrangement, as it gives clarity on CDM accountabilities for the Statutory Undertaker works from the outset, in which the ideal position is for the diversionary works to be completed prior to the highway works commencing. In applying this arrangement the level of interface between the utility works and any highway works needs to be considered. This arrangement can apply to diversions that are both inside the scheme boundary and outside the scheme boundary. In certain situations it may be applicable to temporarily adjust the boundaries of the construction site, to enable both projects to concur independently.

If the requirement for the works is driven by National Highways, it does not automatically mandate National Highways as the CDM Client.

CDM Role Duty Chart

SU CDM Client Arrangement—Duty Chart



1 National Highways Duties

- 8(4) Cooperate with any other person working on or in relation to a project, at the same or an adjoining construction site, to the extent necessary to enable any person with a duty or function to fulfil that duty or function.
- 8(6) Ensure any information or instruction is comprehensible and provided as soon as is practicable.

2 Statutory Undertaker Client Duties

- 4(1,3) Ensure suitable arrangements for managing a project, including the allocation of sufficient time and other resources. Maintaining and reviewing these throughout the project.
- 4(4) To provide pre-construction information as soon as is practicable to every designer and contractor appointed, or being considered for appointment, to the project.
- 4(5) Ensure that both a construction phase plan and the health and safety file have been prepared for the project.
- 4(6) Take reasonable steps to ensure that the Principal Contractor and Principal Designers are fulfilling their duties as per the CDM regulations 2015.
- 5(1) Appointment of both Principal Contractor and Principal Designer (where multiple contractors and designers are present on a scheme).
- 6(1) Notification to the HSE via F10, if the project falls within the set criteria in CDM regulations 2015.
- 8(4) Cooperate with any other person working on or in relation to a project, at the same or an adjoining construction site, to the extent necessary to enable any person with a duty or function to fulfil that duty or function.

CDM Duty to Cooperate

National Highways in this relationship is a Funder, rather than a CDM duty holder for the diversionary works. National Highways however is still a Client for the highway works and therefore still has a **duty under CDM to cooperate** with any adjacent project. **Cooperation throughout the project lifecycle is essential** to ensure successful delivery of the scheme and effective management of risks. The following page is intended to show how this coordination will function in practise.

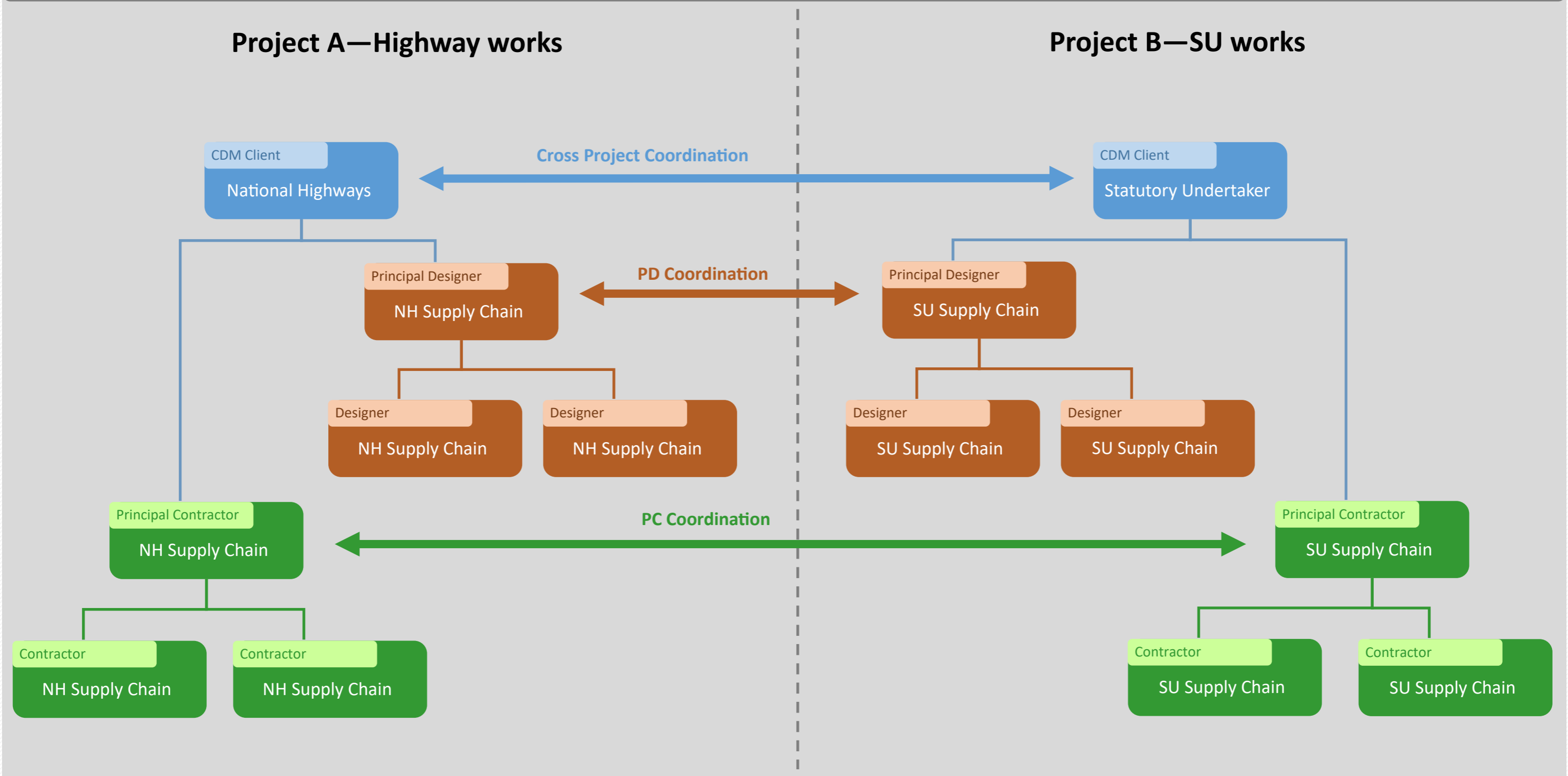
Preference 1—Cross Project Coordination

Notes on Applicability

This slide articulates the coordination between projects, when the Statutory Undertaker works are managed as an independent project. Coordination between the two projects is key in determining successful delivery and management of risks.

Although **National Highways** and its supply chain **do not hold a duty to manage risks for the Statutory Undertaker works**, there is **still a duty** between projects **to cooperate** under the CDM regulations, therefore any health and safety concerns identified by either project, should be communicated. As the **Statutory Undertaker works are an independent project**, **National Highways do not have control of the works**, though we do have the ability to **influence the works and to identify risks** as an adjacent project.

CDM Role Duty Chart - SU CDM Client Arrangement—Cross Project Duty Chart



Preference 2—NH Undertaking CDM Client Duties

Notes on Applicability

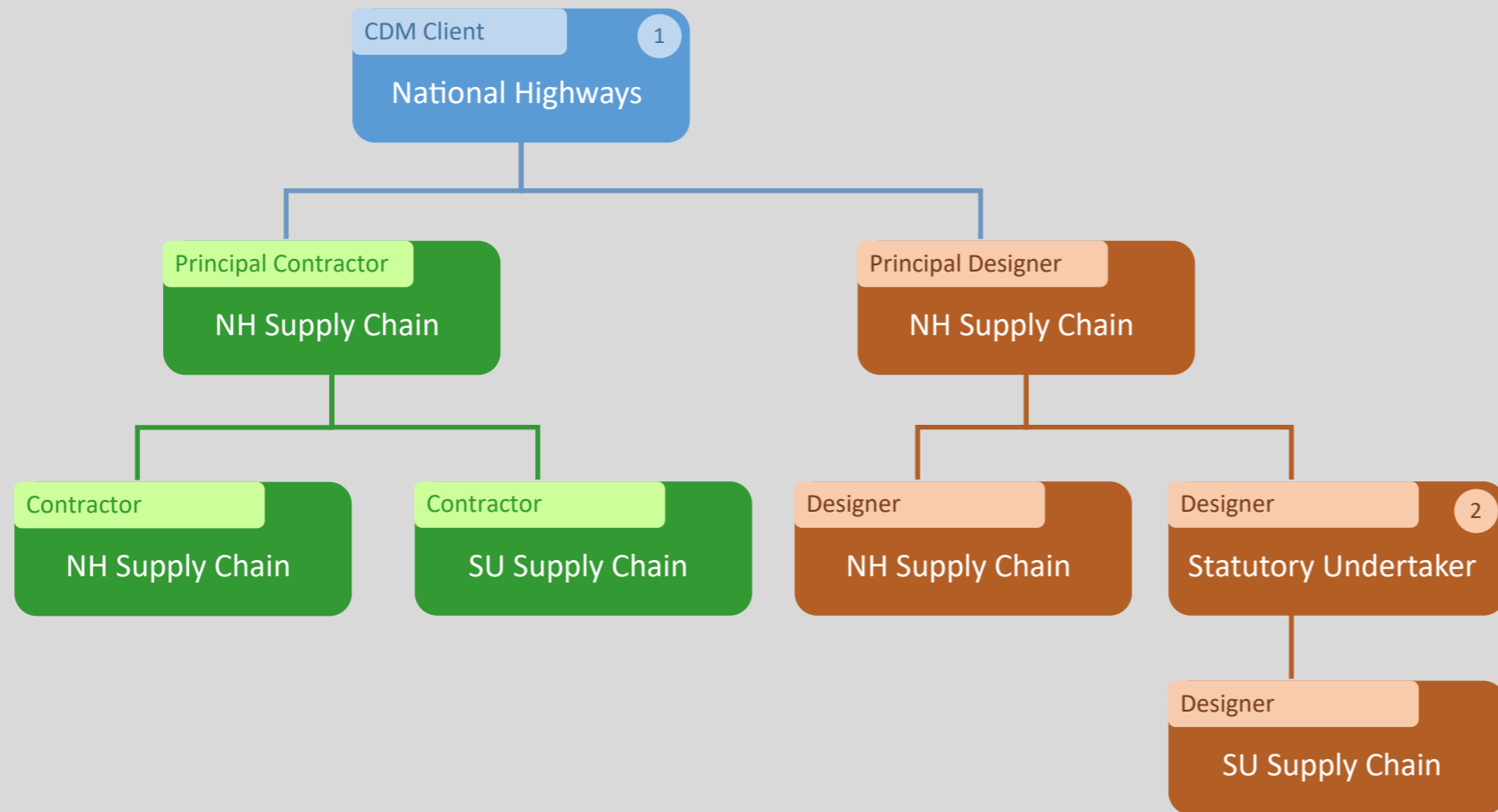
In this arrangement National Highways is the CDM Client for all the works on the scheme, including any Statutory Undertaker works. National Highways will appoint their supply chain to manage and coordinate the diversionary works, in which the Statutory Undertaker will act as a supplier and will need to follow their project management processes. This will need to be set out at procurement phase.

Please note that although Statutory Undertakers may appoint their supply chain, for the purposes of CDM no link has been shown between the Statutory Undertaker and their Contractor, as the duties cascade down from the Principal Contractor and Principal Designer.

Early communication of the project’s health and safety systems is key, **to enable the Statutory Undertaker to fully integrate** with the requirements of the scheme.

CDM Role Duty Chart

NH CDM Client Arrangement—Duty Chart



1 National Highways Client Duties

- 4(1,3) Ensure suitable arrangements for managing a project, including the allocation of sufficient time and other resources. Maintaining and reviewing these throughout the project.
- 4(4) To provide pre-construction information as soon as is practicable to every designer and contractor appointed, or being considered for appointment, to the project.
- 4(5) Ensure that both a construction phase plan and the health and safety file have been prepared for the project.
- 4(6) Take reasonable steps to ensure that the Principal Contractor and Principal Designers are fulfilling their duties as per the CDM regulations 2015.
- 5(1) Appointment of both Principal Contractor and Principal Designer (where multiple contractors and designers are present on a scheme).
- 6(1) Notification to the HSE via F10, if the project falls within the set criteria in CDM regulations 2015.
- 8(4) Cooperate with any other person working on or in relation to a project, at the same or an adjoining construction site, to the extent necessary to enable any person with a duty or function to fulfil that duty or function.

2 Statutory Undertaker Designer Duties

- 9(1) Not commence work in relation to a project unless satisfied that the CDM client is aware of the duties owed by the client under the CDM Regulations 2015.
- 9(2,3) Eliminate or reduce risks as far as reasonably practicable following the general principles of prevention.
- 9(4) Take all reasonable steps to provide sufficient information about the design, construction or maintenance of the diversion, to adequately assist the client, other designers and contractors to comply with their duties under these Regulations.

Statutory Undertaker—Designer

The Statutory Undertaker will likely possess design standards or specifications regarding the installation, repair or maintenance of their apparatus (similar to National Highways) and can therefore be deemed a Designer working beneath National Highways.



Statutory Undertaker CDM Arrangement Guidance

Information on CDM duties in relation to Statutory Undertaker diversions on National Highway schemes.

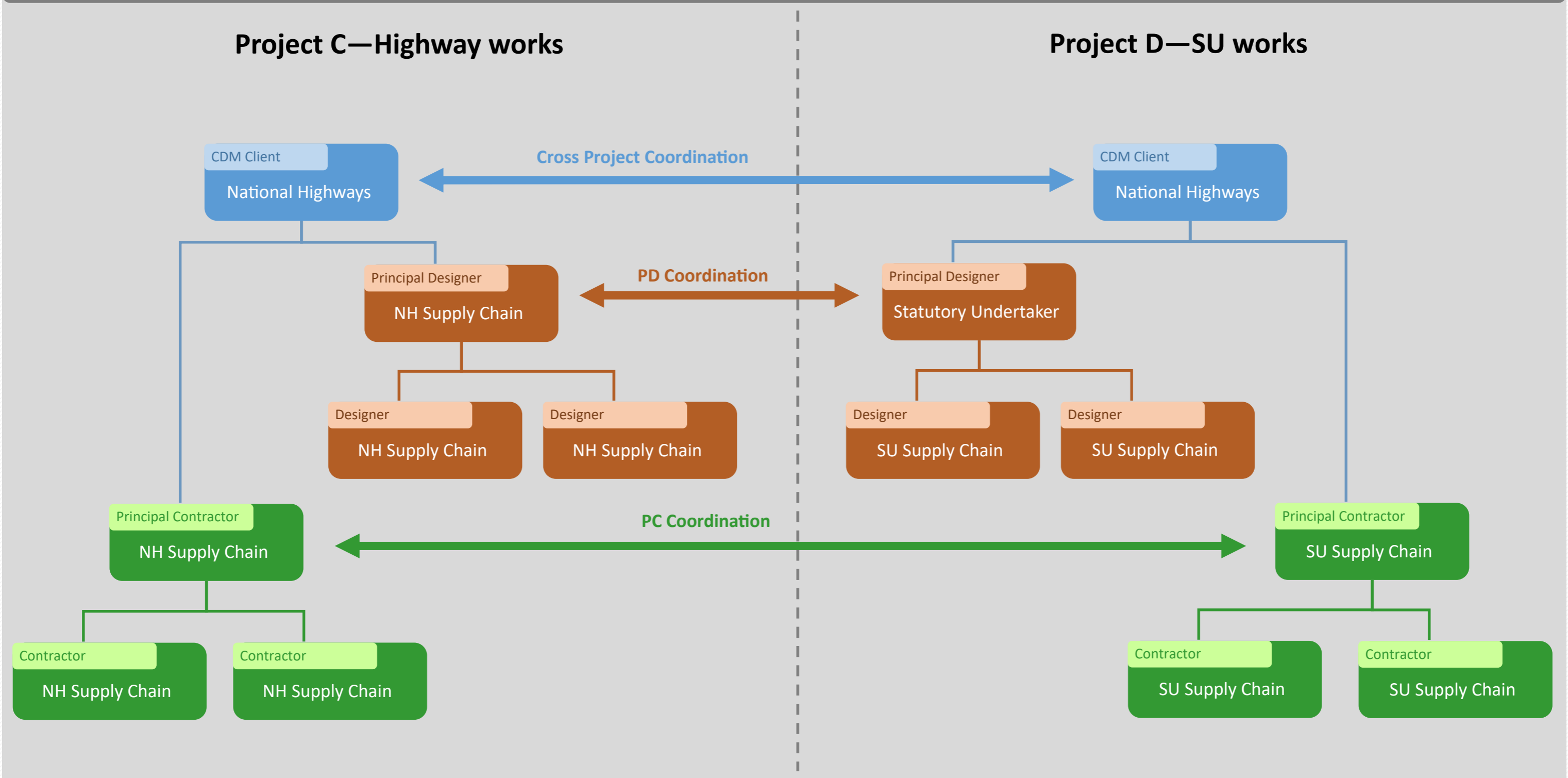
Preference 2b—NH CDM Client—2 Projects

Notes on Applicability

In this arrangement National Highways are acting as CDM Client for both the highway works and the Statutory Undertaker diversionary works, but each one will be managed as an independent project. This preference should be **chosen by exception only**, due to the **additional administrative and managerial controls** required to **manage the projects independently**. The Statutory Undertaker in this preference will be acting as Principal Designer and Principal Contractor for the Statutory Undertaker works.

This arrangement may be appropriate for specialist utility diversions in which it is not appropriate for National Highways' supply chain to act as Principal Contractor or Principal Designer. In this arrangement **National Highways must ensure that both projects are cooperating** at both Principal Contractor and Principal Designer level.

CDM Role Duty Chart - SU CDM Client Arrangement—Cross Project Duty Chart



Case Study 1—SU Advanced Diversionary Works

Preference 1—Offsite works

Notes on Applicability

In this arrangement the Statutory Undertaker has proposed an alternative route, that has minimal interface with the National Highways scheme. This route is of benefit to the Statutory Undertaker, as it allows them to carry out the work in advance of the scheme and reduces the risk of disruption to their network during construction. As such this is an ideal scenario for National Highways to implement preference 1 and take the stance as a Funder, in which the Statutory Undertaker will assume the role as the CDM Client for the works.

National Highways do not have control of how the Statutory Undertaker works are carried out, **but should still raise concerns and issues** with the Statutory Undertaker.

NH National Highways—Funder

In this scenario National Highways are not the CDM Client for the Statutory Undertaker works. They are however, still the CDM Client for the highway works, as the two in this scenario are treated independently for the purposes of CDM.

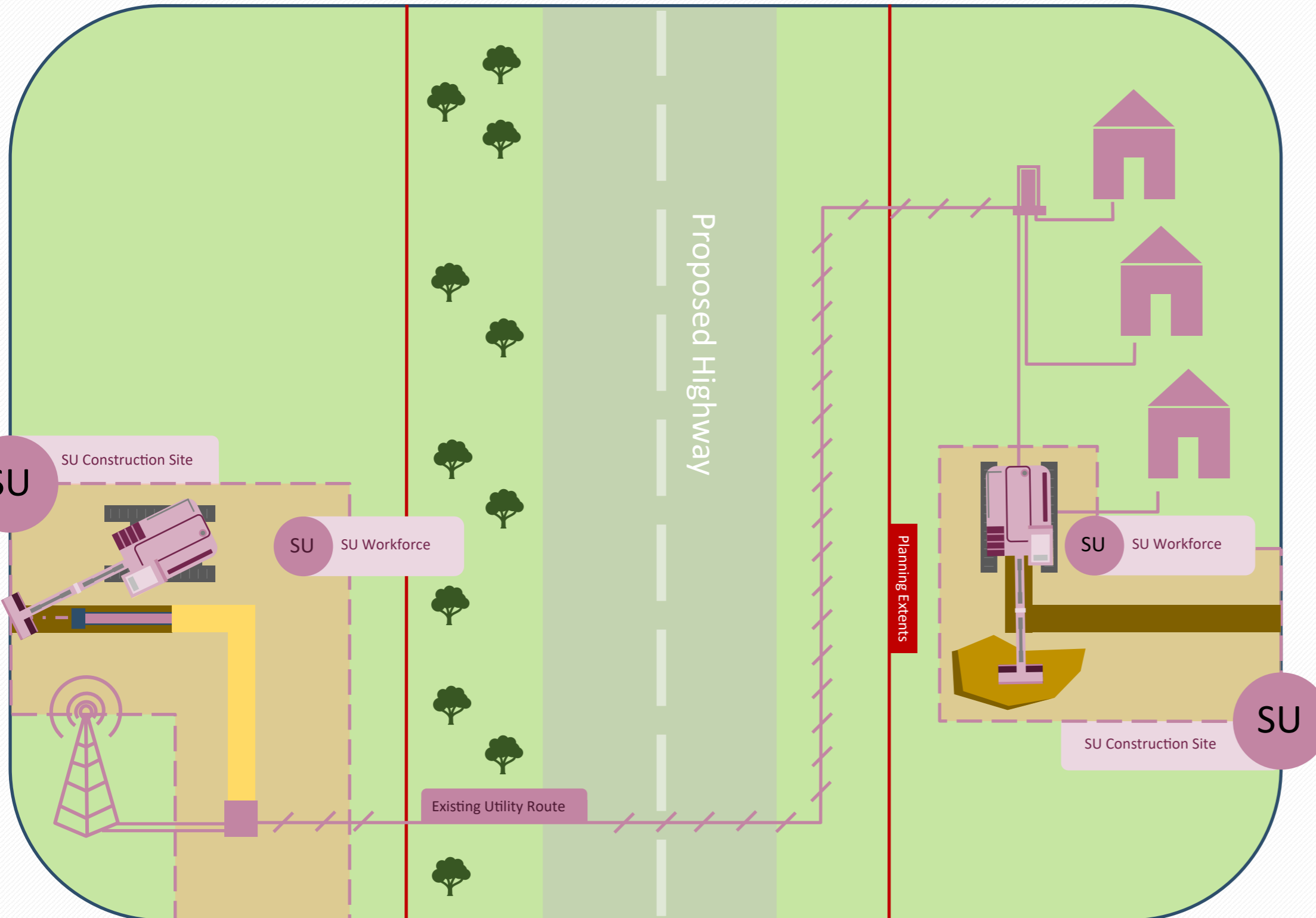
If any of National Highways' staff or contractors are to enter the Statutory Undertaker construction site, they must follow the induction procedures of the Statutory Undertaker (similar to any new staff on the National Highways site).

SU Statutory Undertaker—CDM Client

In this scenario the Statutory Undertaker are the CDM Client and will be undertaking the respective duties under CDM. They will manage their construction project independently of National Highways' construction project.

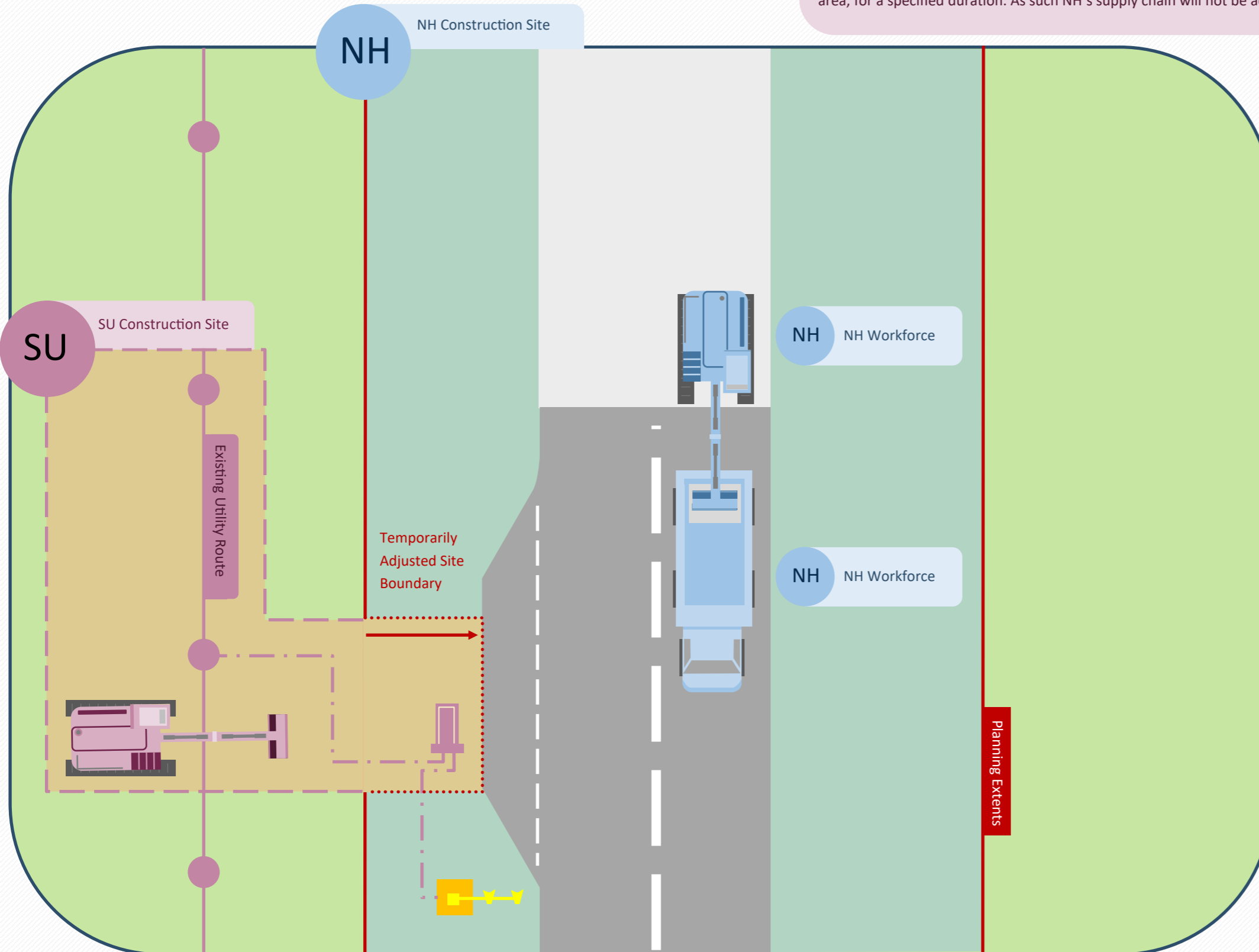
Note—Diversion Layout

It is worth noting that the diversion layout shown on the diagram to the left, is indicative, showing the principle of relocating works offline to reduce the construction impact on any apparatus. Often on sites there will be a larger interface with the main scheme, in which the diversion may still pass through the scheme on a similar horizontal alignment to the existing route, though the impact on the apparatus may be reduced by altering the vertical alignment of the diversion (i.e. using a directional drill, tunnel or installing the diversion at considerable depth).



Case Study 2—SU CDM Client with Offsite Works

Preference 1—Onsite & Offsite works



Notes on Applicability

In this arrangement there are offsite Statutory Undertaker works that have not been captured within the planning extents (red line boundary) for the scheme. There is an average speed camera to be installed, that requires a power supply from the local power grid. In this arrangement, preference 1 is again implemented; National Highways is the Funder for the works and the Statutory Undertaker is the CDM Client. National Highways have temporarily adjusted its site boundary to allow the Statutory Undertaker to construct the works, independently of the Scheme.

Once National Highways transfer an area of site, they are temporarily relinquishing their duty as Client for any works within the specified area, for a specified duration. As such NH's supply chain will not be acting as Principal Contractor or Principal Designer for those works.

NH National Highways—Funder

In this scenario National Highways are not the CDM Client for the Statutory Undertaker works. They are however, still the CDM Client for the highway works, as the two in this scenario are treated independently for the purposes of CDM.

National Highways have adjusted their site boundary and therefore **need to formally agree** this with the Statutory Undertaker via a Transfer of Control of Premises or similar process. **Any subsequent adjustments should be formally recorded.** Any access into the adjusted area must be agreed and granted by the Statutory Undertaker for the duration of the works.

SU Statutory Undertaker—CDM Client

The Statutory Undertaker in this scenario are the CDM Client within the boundaries of their site. They have temporarily taken over a portion of the National Highways site, in which for the duration of the diversionary works, it will be encompassed within their site boundary.

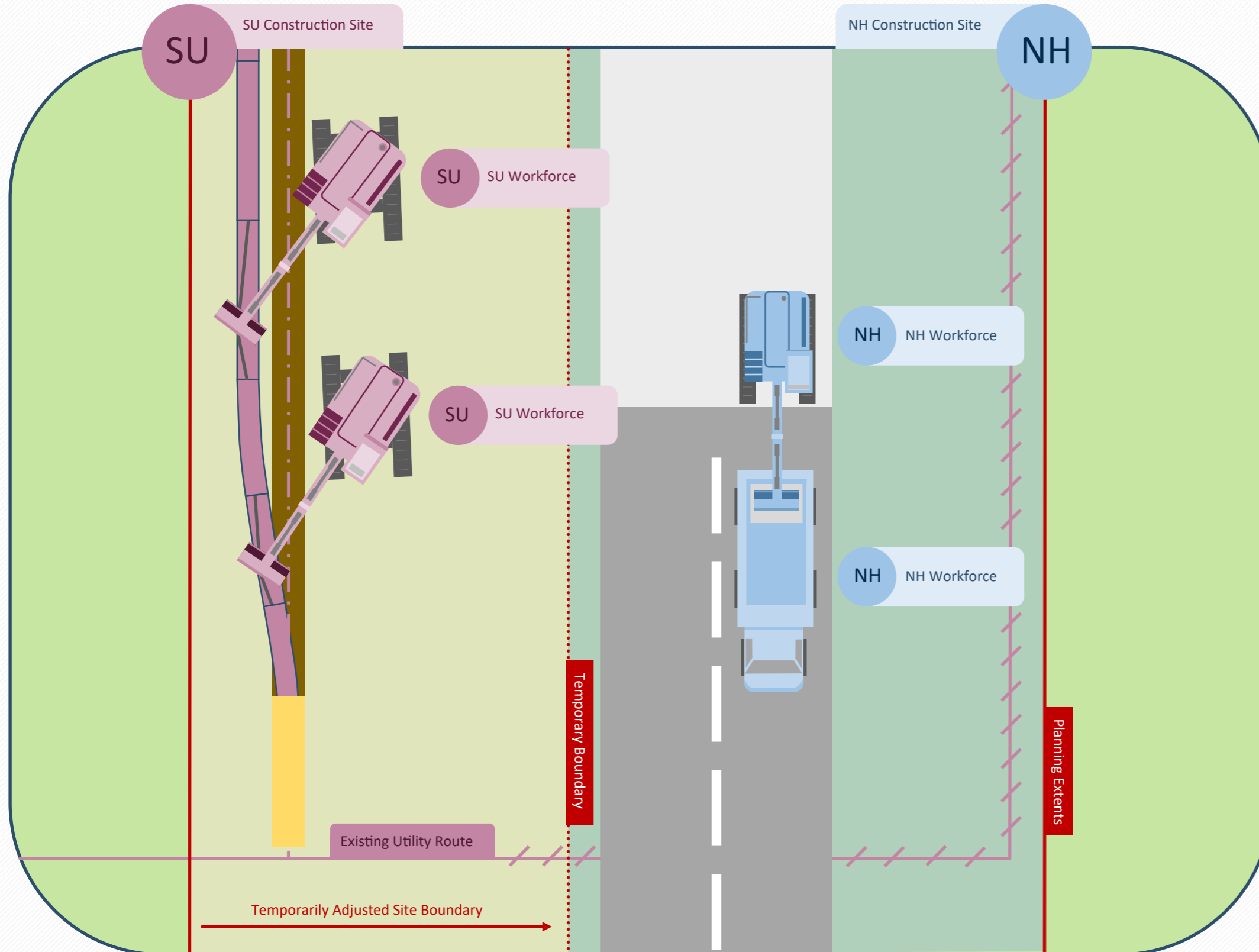
If applicable an F10 must be raised by the Statutory Undertaker for the diversionary works.

Note—Coordination

As the 2 projects in this example are directly adjacent to each other, an **adequate amount of coordination is key**, particularly with concurrent construction activities from both sites.

Case Study 3—SU Undertaking CDM Client Duties

Preference 1—Onsite works



Notes on Applicability

In this scenario, preference 1 is implemented, the proposed highway layout clashes with an existing high pressure gas main, in which the Statutory Undertaker are the CDM Client for the diversionary works. These works will be treated as an independent project and must be appropriately segregated from the highway works. National Highways in this instance are the Funder for the Statutory Undertaker works and the CDM Client for the highway works.

NH National Highways—Funder

National Highways are acting as Funder for the Statutory Undertaker works and CDM Client for the highway works. **National Highways have adjusted their site boundary** and therefore **need to formally agree** this with the Statutory Undertaker via a Transfer of Control of Premises or similar process. **Any subsequent adjustments should be formally recorded.** Any access into the adjusted area must be agreed and granted by the Statutory Undertaker for the duration of the works.

SU Statutory Undertaker—CDM Client

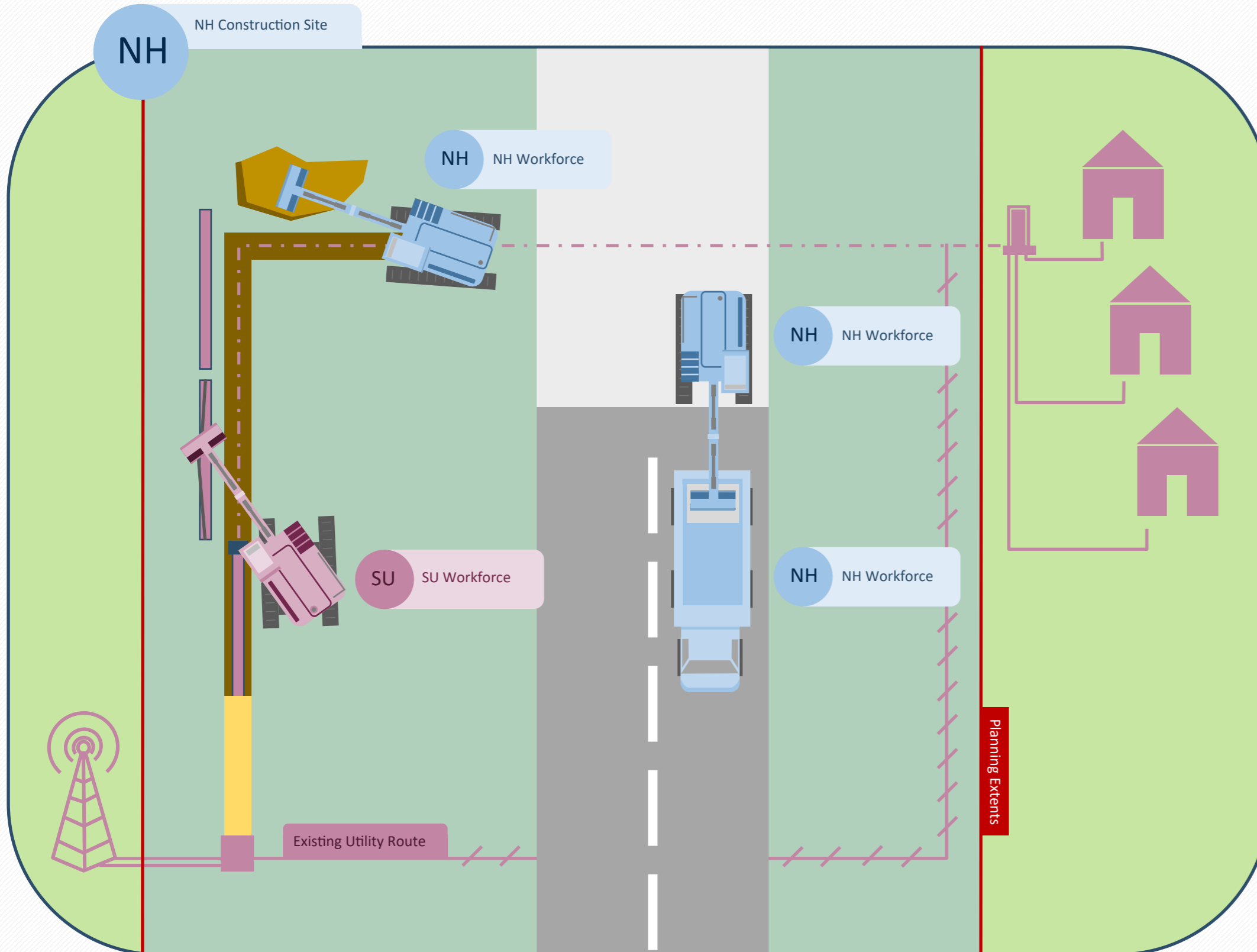
The Statutory Undertaker in this scenario are the CDM Client within the boundaries of their site. They have temporarily taken ownership of a portion of the National Highways site, in which for the duration of the diversionary works, it will be encompassed within their site boundary. If applicable an F10 must be raised by the Statutory Undertaker for the diversionary works.

Note—Temporary Boundary

The **temporary boundary** should be agreed in advance of the work, instances may arise where **alterations** may need to be undertaken to the boundary during these works, these **must be formally recorded and communicated** to all parties involved.

Case Study 4—NH Undertaking CDM Client Duties

Preference 2—Onsite isolated works



Notes on Applicability

In this scenario, preference 2 is implemented; National Highways is the CDM Client and as such, will undertake Client responsibilities for all the works within the scheme planning extents (red line boundary). In this scenario both the highway works and the diversionary works constitute one project, in which National Highways are the Client. The Statutory Undertaker in this scenario will undertake the role as Contractor/ Designer.

NH National Highways—CDM Client

National Highways in this scenario are operating as CDM Client. In this example as National Highways supply chain are carrying out an element of the civils works for the Statutory Undertaker diversion, excavating the trench for the utility apparatus to be installed. In this situation there is no segregation between the diversionary works and the National Highways works.

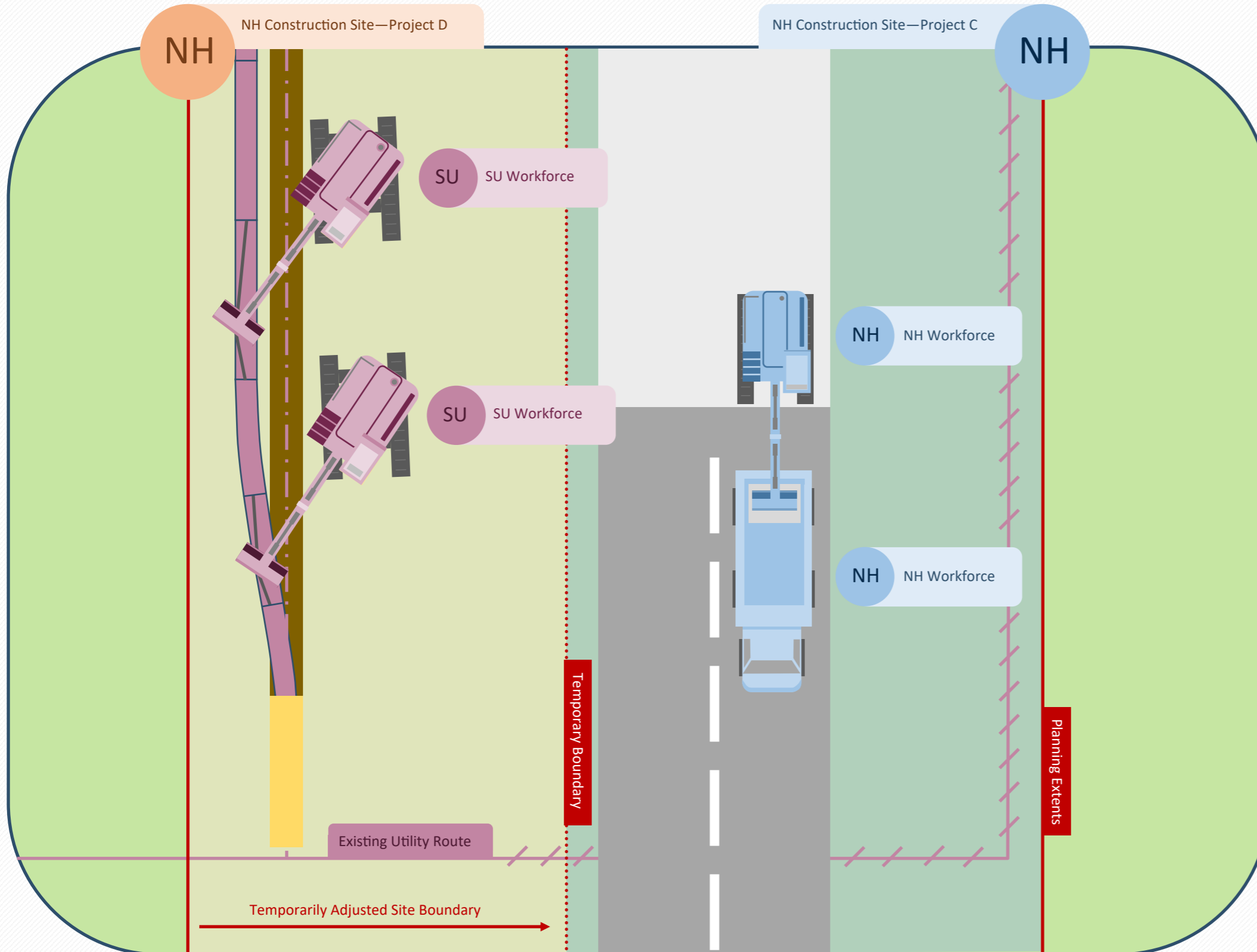
SU Statutory Undertaker—Contractor/ Designer

The Statutory Undertaker in this scenario are working within the National Highways site and therefore must abide to the Health and Safety systems of National Highways' Principal Contractor while working within it.

The **Statutory Undertaker must also coordinate with National Highways Principal Designer** to ensure the general principles of prevention are applied during the design phase.

Case Study 5—NH CDM Client—Multiple Projects

Preference 2b—Onsite isolated works



Notes on Applicability

In this scenario, preference 2b is implemented. This scenario is similar to case study 3, only in this case National Highways are the CDM Client for both projects. In this scenario there are **2 separate, completely independent projects**, the Statutory Undertaker works and the highway works, in which **National Highways are the CDM Client for both projects**. In this scenario the Statutory Undertaker work be acting as Principal Contractor and Principal Designer, within Project 1.

NH Project C—NH Highway Works

The construction boundaries of this scheme in this instance must be temporarily adjusted to facilitate Project 1. In effect the area of the National Highways construction site has been reduced for the duration of the Statutory Undertaker works. There must be an appropriate amount of segregation between the two projects.

NH Project D—SU Diversions Works

This project consists of the Statutory Undertaker diversionary works, in which National Highways are the Client, the Statutory Undertaker are the Principal Contractor and Principal Designer.

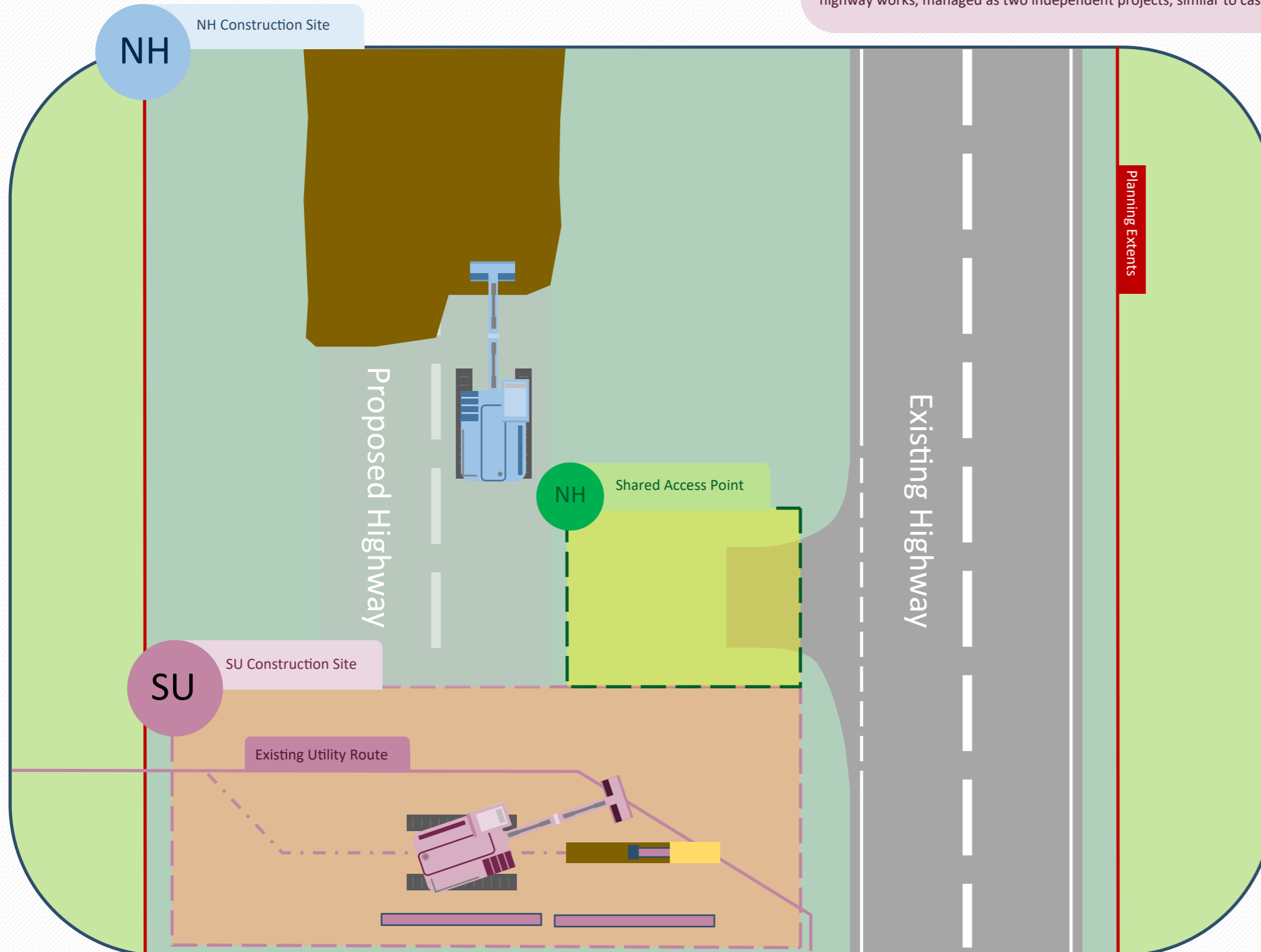
National Highways in the instance must treat this as a separate project and if necessary submit an F10 notification for the works.

Note—Coordination

National Highways are acting as the CDM Client for both projects and therefore **must ensure that there is adequate cooperation and coordination between both projects**.

Advice Note—Shared Access Points

Preference 1 & 2b—Onsite isolated works



Notes on Applicability

In this scenario, the Statutory Undertaker are the CDM Client for the diversionary works. The works in this scenario are located within National Highways' scheme boundary and therefore National Highways will need to temporarily transfer control of an area of the site over to the Statutory Undertaker, becoming an independent project, as an island within the scheme boundary. In this scenario a shared access point is utilised to enable the Statutory Undertaker to gain access to their site. This scenario is shown as preference 1, but could apply to preference 2b also.

Where the application of shared access points is applied to preference 2b, National Highways would be the Client for both the SU works and the highway works, managed as two independent projects, similar to case study 5.

NH National Highways—Funder

National Highways in this scenario are Funding the Statutory Undertaker works, but hold no CDM duty for the diversionary works. They are however the CDM Client for the highway works and therefore have a duty under CDM to cooperate with any adjoining site, which in this case there is a **significant interface** and therefore an **adequate amount of coordination will be required**.

SU Statutory Undertaker—CDM Client

The Statutory Undertaker in this scenario are the CDM Client for the diversionary works. They will appoint their supply chain as Principal Contractor and Principal Designer (or Contractor/Designer if there are one of each).

NH National Highways—Shared Access Point

As the Statutory Undertaker's site is located within an island, with no dedicated access off the road network, a shared access point is required.

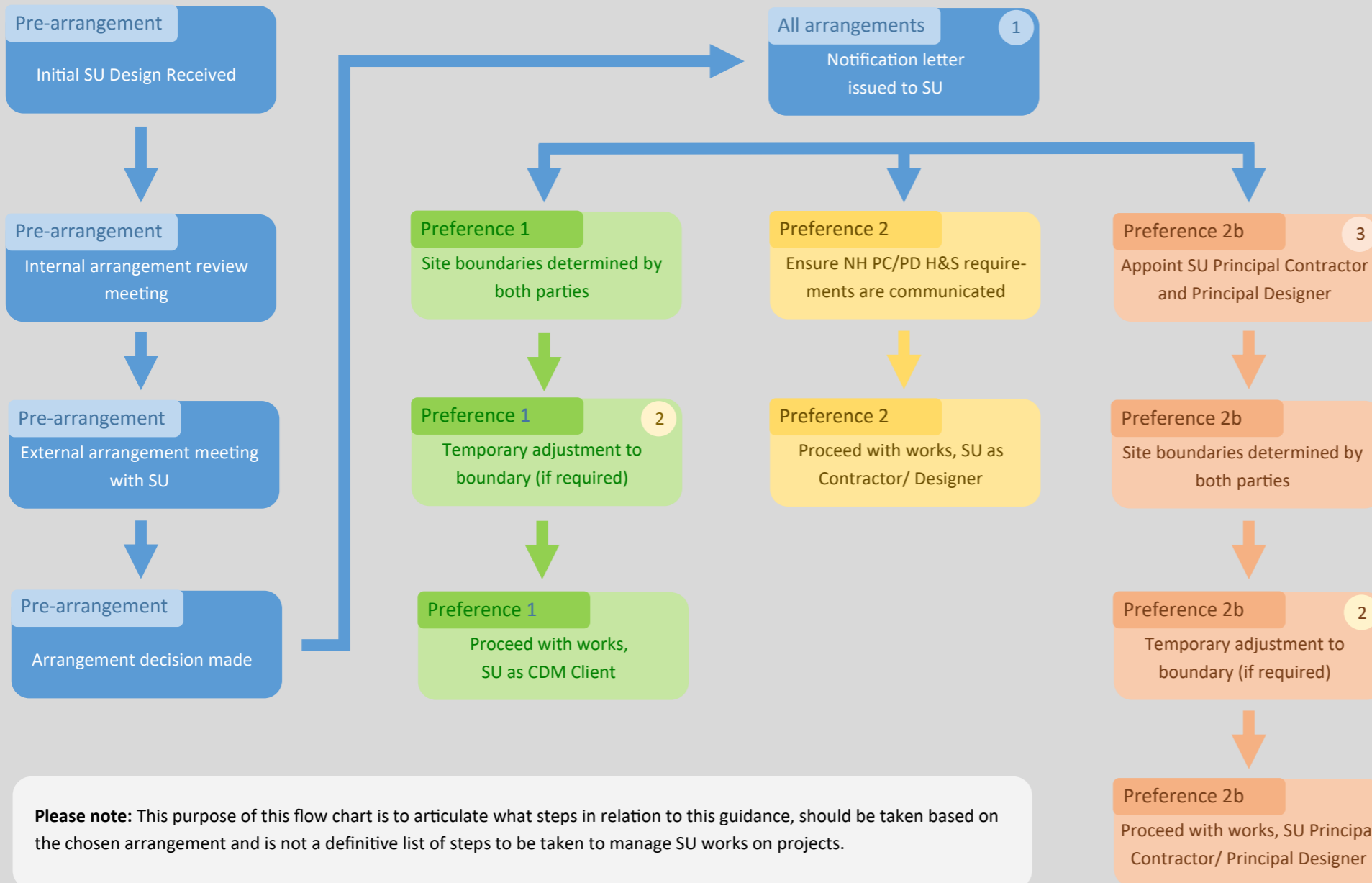
As the shared access point is in use by both parties and located within the National Highways construction site, National Highways will be the CDM Client for this area. As such the Statutory Undertaker will be acting as a Contractor/Designer while travelling through it and must abide by National Highways (and their supply chains) health and safety systems.

Process—Formal Notification and Other Resources

Notes on Applicability

The key to ensuring that the most appropriate arrangement has been selected, is liaison with both the Principal Designer and Principal Contractor at the earliest opportunity. This should also include liaison with the Statutory Undertaker themselves, as each utility company will likely have different methods of operating, which may impact the eligibility of applying one of the arrangements. **Following the arrangement decision process, a meeting should be held with the Statutory Undertaker and a formal notification letter must be issued.**

CDM Arrangement Flow Chart - Process to follow in determining, recording and communicating arrangements



Please note: This purpose of this flow chart is to articulate what steps in relation to this guidance, should be taken based on the chosen arrangement and is not a definitive list of steps to be taken to manage SU works on projects.

1 Client Notification Letter Templates

Formal notification of the chosen arrangement should be carried out in any of the cases. Formal agreement ensures clarity of roles and accountabilities from the outset.

[Click for template link](#)

2 Transfer of Control of Premises Template

Where projects need to temporarily adjust the site boundary to accommodate the diversionary works, this must be recorded via a Transfer of Control of Premises form (or similar process).

Below is a link for a template, it is acceptable for projects to adapt and utilise forms specific to the scheme.

[Click for template link](#)

3 Principal Contractor/Designer Appointments

If preference 2b is chosen, then the Statutory Undertaker will need to be procured and appointed by National Highways for the role of Principal Contractor and Principal Designer.

[Click for procurement process](#)

i Other Resources

- [National Highways H&S Portal—Link](#)
- [CDM Guidance Notes—HSE Website](#)
- [CDM Pipeline—Timeline of key CDM processes in relation to Statutory Undertaker works](#)