

Date: 12 October 2022
Our Ref: 12392



6 New Bridge Street
London EC4V 6AB

Mr James Dawkins
Planning Case Manager
Energy Infrastructure Planning
Department for Business, Energy and Industrial Strategy
1 Victoria Street
London
SW1H 0ET



Email: [Redacted]

Dear Mr Dawkins

THE PLANNING ACT 2008 – SECTION 153 ‘CHANGES TO, AND REVOCATION OF, ORDERS’

THE INFRASTRUCTURE PLANNING (CHANGES TO, AND REVOCATION OF, DEVELOPMENT CONSENT ORDERS) REGULATIONS 2011 – REGULATION 4 ‘APPLICATION’

THE IMMINGHAM OPEN CYCLE GAS TURBINE ORDER 2020 (S.I. 2020 NO. 847) (THE ‘ORDER’)

APPLICATION FOR A NON-MATERIAL CHANGE ORDER IN RESPECT OF CHANGES TO SCHEDULE 1 ‘AUTHORISED DEVELOPMENT’ AND SCHEDULE 2 REQUIREMENT 11(3) ‘FLOOD RISK’ OF THE ORDER

THE IMMINGHAM OPEN CYCLE GAS TURBINE (VPI ‘B’) PROJECT, LAND NORTH OF THE VPI COMBINED HEAT AND POWER (‘CHP’) POWER STATION, ROSPER ROAD, IMMINGHAM, LINCOLNSHIRE, DN40 3DZ

Introduction

We write on behalf of VPI Immingham B Limited (the ‘Applicant’ and ‘Undertaker’) to submit an application for a non-material change order (the ‘Application’) to ‘The Immingham Open Cycle Gas Turbine Order 2020’ (S.I. 2020 No. 847) (the ‘Development Consent Order’ or ‘DCO’) pursuant to Section 153 of ‘The Planning Act 2008’ (the ‘PA 2008’) and Regulation 4 of ‘The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011’ (the ‘2011 Regulations’), to the Secretary of State for Business, Energy and Industrial Strategy (‘BEIS’).

The registered address of the Applicant is 4th Floor, Nova South, 160 Victoria Street, London, SW1E 5LB. The registered address of Dalton Warner Davis LLP (the ‘Agent’) is 6 New Bridge Street, London, EC4V 6AB.

The remainder of this letter summarises the relevant provisions of the DCO and the non-material change that is sought and provides the information required by the 2011 Regulations.

The Order

‘The Immingham Open Cycle Gas Turbine Order 2020’ (S.I. 2020 No. 847) was made by the Secretary of State (‘SoS’) for BEIS on 7th August 2020 and came into force on 1st September 2020. We can confirm that the Applicant is the person who applied for the DCO.

The DCO grants development consent, subject to certain provisions, for the ‘Authorised Development’, which includes the construction, operation and maintenance of an electricity generating station



comprising an Open Cycle Gas Turbine ('OCGT') power station with a gross electrical output of up to 299 megawatts and associated development. The OCGT power station is known as the VPI 'B' Project.

A Correction Order, 'The Immingham Open Cycle Gas Turbine (Correction) Order 2021' (S.I. 2021 No. 581), was made in respect of the DCO on 14th May 2021 and came into force on 17th May 2021. The Correction Order corrected minor drafting and typographical errors in the DCO.

The Application Documents

The Application comprises the following documents:

1. A Supporting Statement (in the form of this letter).
2. The original DCO.
3. The Correction Order.
4. A draft Amendment Order – in the form that the Applicant requests to reflect the changes set out in this letter.
5. A copy of the email from the Publishing Office confirming successful validation of the draft Amendment Order.
6. A track change version of the DCO – a copy of the DCO with the proposed amendments shown as track changes.
7. Updated Cumulative Impact Assessment.
8. Consultation and publicity information, including a copy of the Regulation 7(3) letter and proposed consultee list submitted to the Secretary of State on 16th August 2022; and a copy of the Regulation 6 Notice to be published in local newspapers (the Grimsby Telegraph and the Scunthorpe Telegraph) circulating within the vicinity of the land to which the DCO relates for two consecutive weeks (13th and 20th October 2022. Copies of the Notice as published will be provided as part of the Consultation Statement to be submitted after the consultation requirements have been completed.
9. A Regulation 4(2) Checklist – a checklist confirming the details required by Regulation 4(2) of the 2011 Regulations.

No plans have been submitted as part of the Application as the non-material changes will not require any changes to the Work Number ('Work No.') areas shown on the Works Plans (Application Document Ref. 4.3) or the parameters shown on the Indicative Generating Station Plan (Application Document Ref. 4.5) and used for the Environmental Impact Assessment ('EIA') of the VPI 'B' Project.

All of the Application documents can be downloaded using the following link to a secure file share site.



The application fee of £6,891.00 will be paid electronically.

The Non-Material Changes

The proposed non-material changes to the Order encompass the following:

1. The inclusion of a Synchronous Condenser under Work No. 1 at Schedule 1 'Authorised Development' of the Order.

2. The amendment of Requirement 11(3) 'Flood Risk' at Schedule 2 of the Order to amend the trigger for the submission of the scheme to mitigate operational flood risk.

The changes are described in more detail below.

Schedule 1 'Authorised Development' – Work No.1

The Applicant was successful in the recent capacity auction and will be moving forward with the construction of the VPI 'B' Project (the 'Project'). The Applicant is now in discussions with a preferred engineering, procurement and construction ('EPC') contractor for the construction of the Project. The proposed technology includes the installation of a Synchronous Condenser (also known as a Synchronous Compensator) that will augment the technical capability of the Project, specifically to provide a number of support services that are beneficial to National Grid ('NG') in helping maintain UK electricity transmission network stability.

Synchronous Condensers are becoming increasingly important as the UK relies more and more on renewable electricity generation technologies, which are intermittent in nature. In very simple terms, Synchronous Condensers help balance and smooth out fluctuations between electricity supply and demand on the network and help prevent blackouts. They therefore support the increased deployment of renewables and the decarbonisation of the UK's electricity generation.

The inclusion of the Synchronous Condenser means that the design of the Project will differ to a standard OCGT in that it will incorporate a clutch mechanism between the gas turbine and the generator. The clutch will allow the generating unit to operate in the following modes:

- **OCGT mode** (clutch engaged): The shaft line is operated as per a standard OCGT power plant where the gas turbine drives the generator to generate electricity; or
- **Synchronous Condenser mode** (clutch disengaged): The clutch disengages the gas turbine and allows the generator to spin independently like a motor, operating as a Synchronous Condenser to provide support services to NG. While the Synchronous Condenser is operating the gas turbine does not use any natural gas.

Figure 1 below illustrates the two operating modes.

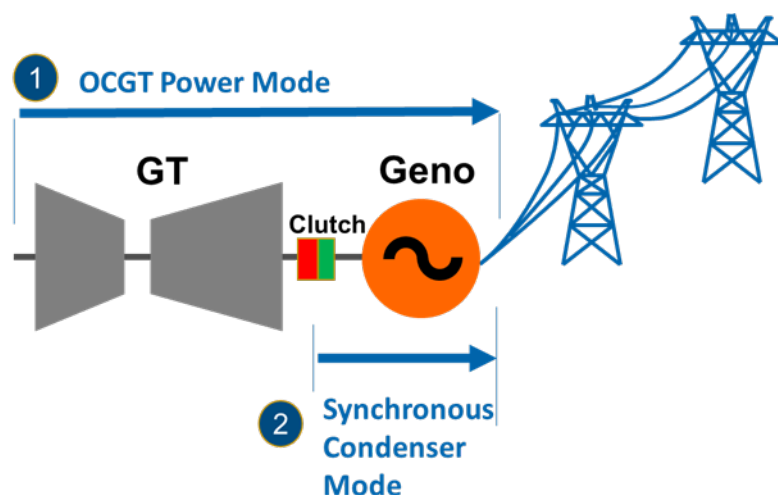
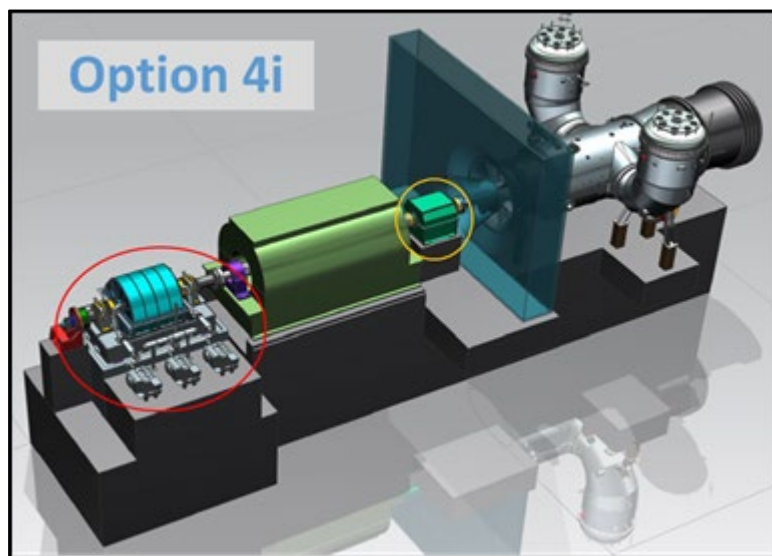


Figure 2 below illustrates the general arrangement of a Synchronous Condenser where it is coupled with a gas turbine. The clutch is circled in yellow.



The Synchronous Condenser will be located inside the gas turbine housing. The Synchronous Condenser will add approximately 4.5m in length to the gas turbine train but the resulting buildings/structures in terms of their dimensions will remain within the parameters used for the EIA of the Project as stated above (and which are secured in Schedule 12 to the DCO), and will not increase the overall footprint of the OCGT power station or require any additional land outside Work No. 1 or the DCO limits.

The following should be noted with regard to the installation of the Synchronous Condenser:

- There will no change in the gross electrical output (up to 299 megawatts) of the OCGT power station.
- The OCGT power station will still operate in ‘OGCT mode’ when required.
- The Synchronous Condenser will not alter the external appearance of the OCGT power station.
- There will be no increase in the overall footprint of the OCGT power station and no additional land (outside Work No. 1 or the DCO limits) will be required for the Synchronous Condenser.
- There will be no change to emissions to air as operation in Synchronous Condenser mode does not require the combustion of natural gas. Neither is it anticipated that there will be any material change to the environmental effects reported in the Environmental Statement (‘ES’) for the OCGT power station or any new environmental effects.
- There will be no material change to the construction program duration.

The Applicant is therefore seeking to add reference to a Synchronous Condenser under Work No. 1 at Schedule 1 ‘Authorised Development’ of the DCO as part of the Application.

Schedule 2 ‘Requirements’ – Requirement 11(3) ‘Flood Risk’

The Applicant is also seeking to amend part (3) of Requirement 11 ‘Flood Risk’ at Schedule 2 ‘Requirements’ of the DCO as follows:

“11. Flood Risk

(3) No part of the authorised development may ~~commence~~ be commissioned until a scheme for the mitigation of flood risk during operation has, for that part, been submitted to and, after consultation with the Environment Agency and North East Lindsey Internal Drainage Board, approved by the relevant planning authority.”

The inclusion of the word “commence” is a drafting error and the Applicant is seeking to amend the requirement so that the scheme for the mitigation of flood risk during operation must be submitted and approved prior to the commissioning (rather than commencement) of any part of the authorised development.

There is clear precedent for this approach to the provision of the details of operational flood risk mitigation through other DCOs notably the following which both relate to generating stations:

- The Eggborough Gas Fired Generating Station Order 2018 – Requirement 14(3) ‘Flood risk mitigation’ *“(3) No part of the authorised development may be commissioned until a scheme for the mitigation of flood risk during operation has, for that part, been submitted to and, after consultation with the Environment Agency, approved by the relevant planning authority.”*
- The South Humber Bank Energy Centre Order 2021 – Requirement 22(1) ‘Flood risk mitigation’ *“(1) No part of the authorised development may be commissioned until a scheme for the mitigation of flood risk during operational has, for that part, been submitted to and approved by the relevant planning authority.”*

On this basis, the Applicant considers that the proposed amendment of Requirement 11(3) is minor, still ensures that the required mitigation is secured at an appropriate point in the development programme, and follows a drafting precedent established through other similar DCOs.

Approach to Materiality

Schedule 6 of the PA 2008 makes provision for the SoS to grant both material and non-material changes to a DCO.

There is no statutory definition of what is “material” for the purposes of either the PA 2008 or the 2011 Regulations. The Guidance makes clear that such decisions will inevitably depend on the circumstances of each specific case. Notwithstanding this, the Guidance sets out four examples of characteristics which are likely to indicate whether or not a change is material. These are considered in turn below.

Environmental Considerations

The Guidance states that a change might be considered material if it would result in the need for an updated ES to take account of:

- a new significant effect that was not identified in the ES for the consented project; or
- a materially different effect (positive or negative) when compared to the ES for the consented project.

As stated above, it is not considered that the inclusion of the Synchronous Condenser or the minor amendment to Requirement 11(3) ‘Flood Risk’ will result in any material change to the environmental effects reported in the ES for the OCGT power station or any new significant environmental effects.

The Applicant's assessment of the proposed changes against the ES for the OCGT power station is set out later within this letter.

The Application includes an updated Cumulative Impact Assessment, taking account of other developments that have come forward since the original 2019 Cumulative Impact Assessment reported in the ES for the OCGT power station. This concludes that there is no change in terms of cumulative impacts or the significance of effects presented in the ES.

Habitats and Protected Species

The Guidance states that a proposed change to a project might be considered material if it would involve a need for a Habitats Regulations Assessment ('HRA'), or the need for a new or additional licence in respect of European Protected Species.

The DCO application for the OCGT power station included a 'No Significant Effects Report' (Application Document Ref. 5.13), which considered whether there would be any Likely Significant Effects ('LSE'), which may arise from the Project, either alone or in combination with other plans or projects, upon any European designated site. The No Significant Effects Report did not identify any LSE, either alone or in combination with other plans or projects. The Secretary of State's decision letter on the DCO Application confirmed their view that the development would not lead to any adverse effect on the relevant Humber Estuary Special Area of Conservation, Special Protection Area or Ramsar site (paragraph 5.15).

The Applicant has reviewed the No Significant Effects Report in light of the proposed changes and taking account of any new plans or projects within the relevant study area since development consent was granted for the Project. The conclusion of this review is that there is no material change in the conclusions of the No Significant Effects Report. Furthermore, no European Protected Species are present within the area of Work No. 1 (which would accommodate the Synchronous Condenser), nor would there be a consequential impact on any European Protected Species within the locality. On this basis, an updated No Significant Effects Report is not required.

The impact pathways screened into the HRA were noise disturbance and changes to surface water quality and air quality. The proposed non-material changes to the DCO do not result in any changes to these impact pathways. There are therefore no changes to the Project that would have any implications for the conclusions of the HRA completed for the DCO Application. Any plans or projects that have come forward and/or been consented in the period since the DCO was made will have conducted their own HRAs in combination with the DCO and would only be consented in accordance with the tests in the Habitats Regulations, and therefore there is no potential for any changes to the outcome of the in combination HRA assessment, which is confirmed by the updated Cumulative Impact Assessment.

Compulsory Acquisition

The Guidance states that a proposed change might be considered material if it would result in a need for the compulsory acquisition of any land that was not authorised through the existing DCO.

The proposed changes do not require additional land outside the DCO Limits or require the alteration of the powers of acquisition at Part 5 of the DCO.

Impact on Business and Residents

The Guidance makes clear that the potential impact of the proposed change on local residents and businesses will also be a consideration in determining whether a change is material. The Guidance notes that material changes might include impacts relating to visual amenity from changes to the size or height of buildings; impacts on the natural or historic environment; and impacts arising from additional traffic.

The Site is relatively remote from local residents, while the nearest businesses are the Humber and Lindsey refineries and the VPI CHP Plant. The Applicant does not consider that there would be any detrimental impact upon local residents or businesses as a result of the proposed changes on the basis that:

- There will be no change to the external appearance of the OCGT power station.
- There will be no increase in the footprint of the OCGT power station and no additional land is required.
- It is not considered that there will be any material change to the environmental effects reported in the ES for the OCGT power station or new significant environmental effects.
- There will be no change to the construction program duration.
- The changes are very limited when considered within the context of the overall consented Project.

For the reasons set out above, it is considered that the proposed changes are therefore **non-material**.

Environmental Effects

The Applicant’s assessment of the proposed non-material changes against the ES for the OCGT power station – in terms of any potential changes in significant environmental effects – is set out in **Table 1** below:

Table 1: Summary of Potential Changes in Significant Environmental Effects

Environmental topic	Residual Effect as reported in the original Environmental Statement that accompanied the DCO application		Potential change in effect as a result of the proposed changes	Reasoning
Air Quality – Chapter 6	Construction	No significant effects identified.	No change	Construction is largely off-site and mechanical in nature so no change effects are identified for construction in terms of emissions from vehicles on-site or dust. There are no new or changed emissions to air when operating in Synchronous Condenser
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		

				mode as there is no gas turbine operation and no new emission points.
Traffic & Transportation – Chapter 7	Construction	No significant effects identified.	No change	No addition or reduction in construction or operational transport movements from those assessed in the ES. No change in effects is identified.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		
Noise & Vibration – Chapter 8	Construction	No significant effects identified.	No change	Construction and operational noise are not expected to be affected by the proposed changes. This is on the basis that there is no change in the construction processes required nor any expected change in operational noise emissions when comparing the Synchronous Condenser with clutch against the consented OCGT power station. Therefore from both a construction and operational noise effects perspective, the residual effects assessment contained in the ES would be unaffected.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		
Ecology – Chapter 9	Construction	No significant effects identified.	No change	No new emissions, no change in development footprint and no noise increase are predicted to occur, therefore no change to impact on ecological receptors and species.
	Operation	No significant effects identified.		

Landscape & Visual Amenity – Chapter 10	Construction	No significant effects identified.	No change	There will be no change in landscape and visual effects during the construction phase as a result of the inclusion of the Synchronous Condenser. The Synchronous Condenser will add approximately 4.5m in length to the gas turbine train but the resulting buildings/structures in terms of their dimensions will remain within the parameters (the ‘Rochdale Envelope’) used for the EIA of the consented OCGT power station. The Synchronous Condenser will not alter the external appearance of the OCGT power station nor result in any change in landscape or visual amenity effects.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		
Ground Conditions & Hydrogeology – Chapter 11	Construction	No significant effects identified.	No change	Any construction will take place within the existing consented site and parameters and there will be no change in terms of activities such as piling. As such, no change is expected in the significance of effects assessed.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		
Surface Water, Flood Risk & Drainage – Chapter 12	Construction	No significant effects identified.	No change	No changes are proposed to the Project footprint, works areas, impermeable surfacing areas or drainage designs are proposed and therefore no change to the flood risk, surface water or drainage is expected.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		

Cultural Heritage – Chapter 13	Construction	Moderate adverse (significant).	No change	Any construction will take place within the consented parameters and therefore within previously assessed works areas. No changes are therefore expected during the construction phase. As confirmed above, the Synchronous Condenser will not alter the external appearance of the OCGT power station and so during its operational phase there will be no change in the assessed effects on cultural heritage within the surrounding area.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		
Socio Economics – Chapter 14	Construction	Moderate beneficial (significant).	No change	No changes are expected to the predicted employment levels for the Project during its construction or operational phases.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		
Sustainability and Climate Change – Chapter 15	Construction	No significant effects identified.	No change	The proposed changes will not result in any change to greenhouse gas emissions or other relevant outputs and therefore no change is identified in terms of climate change impacts.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		
Human Health – Chapter 16	Construction	No significant effects identified.	No change	No change to emissions (air or water), noise levels, transport or land contamination will occur, and therefore no change is identified in terms of impacts on human health.
	Operation	No significant effects identified.		
	Decommissioning	No significant effects identified.		

It is relevant to note that in terms of decommissioning, the Synchronous Condenser will not result in any significant environmental effects in its own right. At the decommissioning stage, it will be one element of the overall decommissioning and demolition works at the Site. Its decommissioning and removal will primarily result in scrap metal, limited quantities of waste lubricating oil and glycol/water coolant and hard core (from the breaking up of the concrete slab it would sit on). The decommissioning of the Synchronous Condenser will be carried out as part of the overall decommissioning of the OCGT power station as anticipated in the EIA for the Project, and therefore it is not anticipated that it will give rise to new or different environmental effects.

As confirmed by the updated Cumulative Impact Assessment, the proposed non-material changes will not result in any changes in term of in combination or cumulative effects or impacts.

Consultation and Publicity

The Applicant wrote to the Planning Inspectorate ('PINS') and the Secretary of State for BEIS on 8th June 2022 to confirm its intention to submit a non-material change application and to outline the proposed non-material changes.

A response was received from PINS on 15th June 2022 drawing the Applicant's attention to the relevant guidance on changes to DCOs – 'Planning Act 2008: Guidance on Changes to Development Consent Orders 2015' (the 'Guidance'). The response from PINS also stated that the Applicant may wish to consider discussing a potential reduced consultees list with BEIS.

The Applicant also advised the relevant local planning authorities, North Lincolnshire Council and North East Lincolnshire Council, of the proposed non-material change application on 8th June 2022.

On 16th August 2022 the Applicant consulted the Secretary of State for BEIS on the proposed scope of the Application. In accordance with Regulation 7(3) of the 2011 Regulations, the Applicant also submitted a letter to the SoS (accompanied by an updated list of those notified pursuant to Section 56 of the PA 2008), seeking the consent of the SoS to undertake a more focussed and targeted consultation for the Application. The updated list identified those consultees that the Applicant proposed to consult and those they did not propose to consult, along with a justification for that approach. The Regulation 7(3) letter and accompanying consultee list form part of the Application.

A response was received from BEIS on 31st August 2022, confirming that it was satisfied with the proposed list of consultees and the publication proposals outlined in the Applicant's letter.

The following consultation and publicity activities will be carried out in connection with the Application:

1. The Application documents and the notice publicising the Application pursuant to Regulation 6 of the 2011 Regulations will be published on the project website at:
[REDACTED]
2. The Applicants will publish the Regulation 6 notice for two consecutive weeks in the Grimsby Telegraph and Scunthorpe Telegraph. The notice will provide details of where the Application documents can be inspected, how to submit comments and the deadline for doing so. The notice will be published in the following publications on the following dates (these are appropriate to give notice of the application in a local newspaper and to ensure notice of the

application is provided in the vicinity of the land in any other publication, pursuant to Regulation 6(1)(a) and (b)):

- Grimsby Telegraph: 13th and 20th October 2022.
 - Scunthorpe Telegraph: 13th and 20th October 2022.
3. A letter will be sent to the relevant consultees (accompanied by the Regulation 6 Notice) providing information on the Application, details of where the Application documents can be inspected, how to submit comments and the deadline for doing so.

A copy of the Regulation 6 Notice forms part of the Application.

Compliance with Regulation 4(2)

A checklist setting out how the Application complies with Regulation 4(2) of the 2011 Regulations is provided as **Attachment 1** to this letter.

We would be grateful if you could acknowledge receipt of the Application.

Yours sincerely



Geoff Bullock

Partner

DWD



Enc.

Application documents.

Attachment 1 – Regulation 4(2) Checklist

ATTACHMENT 1

Checklist of details required by Regulation 4(2) of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011

Regulation	Requirement	Response
4(2)(a)	Name and address of the applicant	Name: VPI B Immingham Limited Registered office address: 4th Floor, Nova South, 160 Victoria Street, London, England, SW1E 5LB
4(2)(b)	Name and address of an agent, if appointed	Dalton Warner Davis LLP, 6 New Bridge Street London EC4V 6AB c/o Geoff Bullock
4(2)(c)	Secretary of State's reference for the development consent order to which the application relates	The Immingham Open Cycle Gas Turbine Order 2020 (the "Order") (SI 2020 No. 847) PINS ref: EN010097
4(2)(d)	Details of the change being applied for	The Applicant seeks to make the following non-material changes:- <ol style="list-style-type: none"> 1. The inclusion of a Synchronous Condenser under Work No. 1 of Schedule 1; and 2. The amendment of Requirement 11(3) of Schedule 2 to amend the trigger for submission of the scheme to mitigate operational flood risk, from prior to commencement, to prior to commissioning; and any other minor drafting amendments to article 2, that may be required as a consequence of those changes.
4(2)(e)	Any documents or plans considered necessary to support the application	<ol style="list-style-type: none"> 1. A Supporting Statement (in the form of a letter); 2. The original Order; 3. The Correction Order; 4. A draft Amendment Order; 5. A Copy of the email from the Publishing Office confirming successful validation of the draft Amendment Order.

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		<ol style="list-style-type: none"> 6. A copy of the Order with the proposed amendments showing in track changes; 7. Updated Cumulative Impact Assessment; 8. A copy of the Regulation 7(3) letter and consultee list sent to the Secretary of State on 16th August 2022; 9. A copy of the newspaper notice to be published in local newspapers (a copy of the notice as published will be provided as part of the Consultation Statement to be submitted after the consultation requirements have been completed); and 10. A Regulation 4(2) Checklist (this checklist).
4(2)(f)	A statement as to the status of the applicant, as referred to in Regulation 4(2)(f)(i), (ii) and (iii)	The Applicant for this non-material change is VPI B Immingham Limited, the Applicant who originally applied for the Order (Reg 4(2)(f)(i))
4(2)(ff)	The consultation and publicity statement referred to in Regulation 7A	This will be provided to the Department of Business, Energy and Industrial Strategy after the consultation requirements have been completed.
4(2)(g)	Details of the applicant's interest in the land	The Applicant has the benefit of an option agreement to acquire a leasehold interest for the land required for Work No. 1.
4(2)(h)	Any paper copies of the application and other supporting documents or plans, as may be requested by the Secretary of State	Paper copies have not been requested.