

9.5 LOCAL PLANNING SCHEME AMENDMENT NO. 11

- Attachments:**
1. **Form 2A - Amendment No. 11**  
 2. **Royal Perth Hospital Scheme Amendment Request**  

RECOMMENDATION:**That Council:**

1. **PREPARES** Amendment No. 11 to Local Planning Scheme No. 2 as at Attachment 1, pursuant to Section 75 of the *Planning and Development Act 2005*, for community consultation;
2. **CONSIDERS** Amendment No. 11 to Local Planning Scheme No. 2 to be a complex amendment pursuant to Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the amendment:
 - 2.1 is not addressed by any local planning strategy; and
3. **PROCEEDS** to advertise Amendment No. 11 to Local Planning Scheme No. 2 without modification pursuant to Regulations 37(1) of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

PURPOSE OF REPORT:

To consider the request from the Department of Health – East Metropolitan Health Service for a Special Control Area to be included in Local Planning Scheme No. 2 (LPS2) to protect the Royal Perth Hospital Emergency Helicopter Flight Path and preparing Amendment No. 11 to LPS2 included as **Attachment 1**.

BACKGROUND:

In September 2022 the City of Perth and the City of Vincent received a request from Element Advisory on behalf of the Department of Health - Eastern Metropolitan Health Service (EMHS) to initiate a scheme amendment to establish a Special Control Area to protect the Emergency Helicopter Flight Path to Royal Perth Hospital (RPH). The scheme amendment request is included at **Attachment 2**.

The gazettal of the *Royal Perth Hospital Protection Act 2016* secured and reiterated the importance of RPH with clause 6 of the Act stating “*Royal Perth Hospital is to continue to operate as a public hospital unless a resolution approving the closure of the hospital has been passed by each House of Parliament.*” RPH is the designated State Major Trauma Unit (SMTU) for adults in Western Australia.

The SMTU is serviced by users of the RPH helicopter landing site, including the state emergency rescue helicopter service. Helicopter transport provides the quickest means of transferring critically injured patients to a major trauma service, increasing a patient's chance of survival and recovery.

The Australian Civil Aviation Safety Authority (CASA) is responsible for the safety regulation of civil air operations and the safety of air navigation in Australia, including helicopters in flight.

CASA regulatory changes require an emergency flight path be designated and protected for situations where, due to mechanical failure, a helicopter only has one engine, and needs to approach, set down or fly away from a helicopter landing site without obstacles in the flight path.

The regulatory changes also resulted in the need for emergency helicopters to be upgraded to larger models requiring a new helicopter landing site at RPH.

The RPH helicopter landing site is a strategically important helicopter landing site as defined under Guideline H of the National Airports Safeguarding Framework (Department of Infrastructure, Transport, Regional and Development and Communities).

Emergency flight path options were considered as part of the planning for the new helicopter landing site. Various routes have been assessed to determine a flight path that minimises the impact on development within the City of Perth and City of Vincent and also meet the needs of helicopter pilots.

In 2019, the Western Australian Planning Commission (WAPC) approved a development application for a new helicopter landing site. The protection of emergency flight paths did not form part of the development approval.

Advice from the Department of Planning, Lands and Heritage is that the creation of a Special Control Area in Local Planning Scheme No. 2 (LPS2) is the most appropriate planning mechanism to protect the emergency flight path.

The City of Perth resolved to initiate the scheme amendment to their affected areas on 27 September 2022. The minutes are available [here](#).

DETAILS:

Scheme amendment

Amendment 11 to LPS2 proposes to:

- create a special control area comprised of a “core flight path area” and a “frame flight path area” that make up the emergency flight path protection area;
- limit maximum building heights within the “core flight path area” to below between 65 and 120 metres above AHD or between 50 and 110 metres above natural ground level;
- Require development approval for some development at a lower height within the core and frame areas so that works and temporary structures (such as cranes) can be managed to ensure they are not an obstruction risk within the emergency flight path corridor; and
- create a consultation process with the EMHS so they can provide advice on development applications and construction management plans located within the emergency helicopter flight path protection area.

Permanent development and temporary works and equipment have the potential to encroach into the emergency flight paths associated with the RPH helicopter landing site, presenting a hazard to helicopters. Amendment 11 proposed to control development within the core flight path area by limiting the height of permanent development (including parts of a building which are ordinarily excluded from building height calculations) so that it does not encroach above the flight path.

The RPH helicopter flight path has been determined in accordance with the International Civil Aviation Organisation’s standards, which are industry best practice.

The flight path limits are expressed as maximum Australian Height Datum (AHD) heights within the Scheme Amendment Request, included as **Attachment 2**, with the proposed heights in the City of Vincent shown in Figures 1.1 to 1.4. AHD is the height above the mean sea level of Australia measured between 1966 and 1968. The City of Vincent uses height about natural ground level rather than AHD in its planning framework.

To determine the permitted development height proposed by Amendment 11 the AHD of each sites natural ground level would need to be determined. It should be noted that the approximate natural ground level of land within the City of Vincent is between approximately 5 and 20 metres above AHD.

Development would not be limited within the frame flight path area. The purpose of the frame flight path area is to ensure that temporary works and equipment, such as cranes, do not present a hazard to helicopters using the core flight path area.

Works which typically do not need approval under LPS2 and the *Planning and Development (Local Planning Schemes) Regulations 2015* would require development approval where they are situated above or within 30 metres of the maximum AHD heights specified in the Core and Frame Flight Path Areas. This is to ensure that permanent and temporary development and equipment would not present a hazard to helicopters using the emergency flight path protection area.

Where development approval is required, the EMHS would be consulted both in relation to the proposed development and any associated construction management plan.

Impact on development

Development impacts have been limited by taking advantage of major road and rail reservations, avoiding existing buildings, where possible, and using the Swan River for a large proportion of the flight path length.

Privately owned landholdings represent approximately 5.7 percent of the flight path protection area with the majority of these landholdings in the City of Perth portion of the emergency flight path.

Publicly owned landholdings represent approximately 94.3 percent of the total flight path protection area. The majority of these landholdings fall in the City of Vincent portion of the emergency flight path with the City of Perth public landholdings associated with RPH.

The proposed Amendment 11 would set absolute height limits of no less than 50 metres above natural ground level for development within the City of Vincent section of the flight path and require development approval for any works starting from no less than 20 metres above natural ground level. Policy No. 7.1.1 – Built Form prescribes acceptable outcomes building heights up to six storeys (22.5 metres) and eight storeys (28.7 metres) within the affected area. These current built form standards indicate that development is unlikely to be restricted by the height limits proposed by Amendment 11. Development applications would ordinarily be required for works of this height, though some ancillary structures that would currently be exempt would be required to gain development approval as a result of Amendment 11.

Complex Amendment

This scheme amendment is a complex amendment because:

- It is not addressed by any local planning strategy.

The Local Planning Strategy identifies Claisebrook as a planned growth area. Sites within this precinct have been rezoned under LPS2 to allow for urban growth and development.

The City recently completed a [report of review](#) on its Local Planning Strategy and Scheme. The review highlighted the need for a planning framework for the area around the Claisebrook train station. The WAPC considered the City's report of review and directed the City to amend its Local Planning Scheme to address this item, and to align its Local Planning Strategy with the State Planning Framework including the Central Sub-Regional Planning Framework, relevant State Planning Policies (recommendation available [here](#)).

The potential impacts of the scheme amendment have not been contemplated under the existing Local Planning Strategy.

CONSULTATION/ADVERTISING:

In accordance with the City's [Community and Stakeholder Engagement Policy](#) and clause 38(3) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, community consultation of all complex scheme amendments must be provided for a period of 60 days.

The City has worked closely with EMHS's planning consultant (Element) and the City of Perth to determine the consultation plan for this scheme amendment. The consultation plan would include the following:

- notice published on the City's website;
- notice posted to the City's social media;
- notice published in the local newspapers;
- notice exhibited on the notice board at the City's Administration and Library and Local History Centre; and
- letters distributed to relevant local businesses and community groups.

Public notice of this scheme amendment would commence after notice has been given to the West Australian Planning Commission.

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Local Planning Scheme No. 2; and
- City of Vincent Local Planning Strategy (2016).

Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015

Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning. Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires a resolution of a local government to adopt an amendment to a local planning scheme which must specify if the amendment is a basic, standard or complex amendment. This is discussed earlier in the report. If Council resolves to adopt the amendment for the purposes of advertising:

- The City would advise the Western Australian Planning Commission (WAPC) what type of amendment it is considered to be in accordance with Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and would forward the amendment documentation to the EPA in accordance with for its consideration in accordance Section 81 of the *Planning and Development Act 2005*. If the amendment was considered to be a Complex Amendment by Council then it would need to be sent to the WAPC for approval to advertise. Following the outcome of this, community consultation would commence.
- After the close of community consultation, Administration would summarise all submissions received and prepare a report for Council's consideration at a future Council meeting. Council can determine to either adopt the scheme amendment for final approval, with or without modifications, or resolve to not support the amendment. Council's decision is then forwarded to the WAPC which considers the proposal and submissions before making a final recommendation to the Minister for Planning. The Minister may grant final approval to the scheme amendment, with or without modifications, or may refuse to approve the scheme amendment. The final decision rests with the Minister. If the Minister agrees to grant final approval, the City would then arrange for the scheme amendment to be published in the Government Gazette, at which point it legally comes into effect. A scheme amendment can take up to 12 months to complete.
- Initiation of the amendment does not bind Council to support final adoption of the amendment following advertising.

It should be noted that this is not a formal scheme amendment application as EMHS is not a land owner for the purpose of this scheme amendment and so cannot apply to have LPS2 amended. Instead this is a request for the City of Vincent to prepare a scheme amendment to address the requirements of RPH.

It would be possible for the EMHS to separately request that the Minister for Planning, Lands and Heritage to order the City to adopt the scheme amendment in accordance with Section 76 of the *Planning and Development Act 2005*.

RISK MANAGEMENT IMPLICATIONS

Low: It is low risk for Council to initiate Amendment 11 to LPS2.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Sensitive Design

Our planning framework supports quality design, sustainable urban built form and is responsive to our community and local context.

SUSTAINABILITY IMPLICATIONS:

This does not contribute to any specific sustainability outcomes of the *City's Sustainable Environment Strategy 2019-2024*.

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.



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LOCAL PLANNING SCHEME NO. 2

Amendment No. 11

Complex amendment to include a Special Control Area over the Royal Perth Hospital Emergency Flight Path.



CITY OF VINCENT

FORM 2A*Planning and Development Act 2005***RESOLUTION TO PREPARE AMENDMENT TO LOCAL PLANNING SCHEME**

CITY OF VINCENT LOCAL PLANNING SCHEME NO. 2
AMENDMENT NO. 11

RESOLVED that the local government pursuant to section 75 of the *Planning and Development Act 2005* (as amended), amend the above Local Planning Scheme to:

1. Delete the following text under Part 5 clause 36:
There are no special control areas which apply to this Scheme.
2. Insert the following text into Part 5 clause 36:
 1. The following special control areas are listed in Schedule 4 –
 - (a) Royal Perth Hospital Flight Path Protection Special Control Area
 2. Provisions that apply to a special control area are set out in Schedule 4 and apply in addition to any other provision of this Scheme.
 3. Where a provision of a special control area is inconsistent with any other provision of this Scheme, the provision of the special control area is to prevail.
 4. Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.
3. Insert new Schedule 4:

Schedule 4 - Special Control Areas

1. (a) Royal Perth Hospital Helicopter Flight Path Protection Special Control Area

1.1 Special Control Area

The following provisions apply to the land shown in Figures 1.1 to 1.4 as the Royal Perth Hospital Helicopter Flight Path Protection Special Control Area which comprises Core and Frame Flight Path Areas.

Note: The provisions of this Special Control Area do not apply to the parts of the Special Control Area which are legislated under the Metropolitan Redevelopment Act 2011 or to telecommunication facilities legislated by the Telecommunications (Low Impact Facilities) Determination Act 1997.

1.2 Objectives

The objectives of the Royal Perth Hospital Helicopter Flight Path Protection Special Control Area are –

- a. To ensure the continued safe operation of Royal Perth Hospital's Strategic Helicopter Landing Site in support of the hospital's function as the State's Major Trauma Unit.
- b. To ensure that permanent development does not encroach into the Core Flight Path Area.



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- c. To ensure that temporary works and equipment within the Special Control Area do not present a hazard to helicopters using the Core Flight Path Area.

1.3 General Provisions

- 1.3.1 Where a provision of another Special Control Area is inconsistent with a provision of this Special Control Area, the provisions of this Special Control Area shall prevail.
- 1.3.2 Notwithstanding clause 36(3) of the Scheme, where the heights specified in sub-clause 1.5.1 of this Special Control Area are inconsistent with the heights specified on the Maximum Building Heights Plan, whichever is the lower height shall apply.

1.4 Requirement for Development Approval for Works

In accordance with sub clause 61(6)(a) of the Deemed Provisions, an application for development approval for works that are typically excluded under clause 61(1) of the Deemed Provisions shall be required for works that are situated above or within 30 metres of the maximum Australian Height Datum (AHD) heights specified in Figures 1.2 and 1.3 for the Core and Frame Flight Path Areas.

1.5 Development Requirements

- 1.5.1 Within the Core Flight Path Area, permanent development, including the parts of a building which are ordinarily excluded from building height calculations, shall not exceed the maximum AHD heights specified in Figures 1.2 and 1.3, as well as intermediate maximum AHD heights determined by a 4.5% gradient as shown in Figure 1.4.
- 1.5.2 Within the Core and Frame Flight Path Areas, temporary works and equipment shall not present a hazard to helicopters using the Core Flight Path Area.

1.6 Consultation with Other Authorities

Where development and any associated works and equipment are situated above or within 30 metres of the maximum AHD heights specified in Figures 1.2 and 1.3 and/or the intermediate maximum AHD heights specified in Figure 1.4 for the Core and Frame Flight Path Areas, the local government shall provide a copy of the application for development approval to the owner of the Royal Perth Hospital Helicopter Landing Site for objections and recommendations in accordance with clause 66 of the Deemed Provisions.

Note: The Department of Health's East Metropolitan Health Service is the owner of the Royal Perth Hospital Helicopter Landing Site.

1.7 Consideration of Application by Local Government

- 1.7.1 Development approval shall not be granted for permanent development in the Core Flight Path Area which exceeds the maximum AHD heights specified in Figures 1.2 and 1.3 or the intermediate maximum AHD heights specified in Figure 1.4.
- 1.7.2 In considering an application for development approval (other than an application for which approval cannot be granted under subclause 1.7.1), the local government is to have due regard to the following matters:
- the objectives of this Special Control Area; and
 - the views of the owner of the Royal Perth Hospital Helicopter Landing Site in relation to how the application addresses the National Airports Safeguarding Framework - Guideline H, or any other relevant technical guidelines.



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- 1.7.3 Where development and associated works are situated above or within 30 metres of the maximum AHD heights specified in Figures 1.2 and 1.3, or the intermediate maximum AHD heights in Figure 1.4, for the Core and Frame Flight Path Areas, the local government shall include as a condition of development approval, the submission of a Construction and Demolition Management Plan in a form and manner to the satisfaction of the local government.
- 1.7.4 The local government shall provide a copy of the Construction and Demolition Management Plan, including any subsequent amendments to the plan, to the owner of the Royal Perth Hospital Helicopter Landing Site for recommendations for the local government to consider in determining the acceptability of the plan.
- 1.7.5 The owner of the Royal Perth Hospital Helicopter Landing Site shall, within 21 days of receiving the Construction and Demolition Management Plan, or within such longer period as the local government allows, provide to the local government a memorandum in writing containing any recommendations with respect to the plan and any subsequent amendments to the plan.
- 1.7.6 The Construction and Demolition Plan shall provide details of the temporary works and equipment, including cranes, to be used on site for construction and demolition purposes including but not limited to:
- The duration of the construction period (start date and end date) and the time period in which any crane or other equipment will remain on site;
 - Maximum operating height, maximum operating radius and operating time/s of any crane or other equipment; and
 - The measures to be taken to minimise any potential impact on and/or encroachment into the Core Flight Path Area.

1.8 Definitions

The following definitions apply within the Special Control Area:

Core Flight Path Area - is the protected operational flight paths used by helicopters arriving and departing the Royal Perth Hospital Helicopter Landing Site as defined by the relevant civil aviation guidelines and/or standards as shown in

Figures 1.1 to 1.4.

Frame Flight Path Area - is the area adjoining the Core Flight Path Area as shown in Figures 1.2 and 1.3 within which temporary works and equipment need to be considered in relation to their impact on the Core Flight Path Area.

Royal Perth Hospital Helicopter Landing Site – the rooftop landing surface used for the arrival or departure of helicopters associated with the operations of the Royal Perth Hospital State Major Trauma Unit as shown in Figure 1.1.

Permanent development – development which is not temporary works or equipment.

Temporary works and equipment – works and equipment such as cranes, machinery and structures used temporarily to undertake development and/or maintenance.

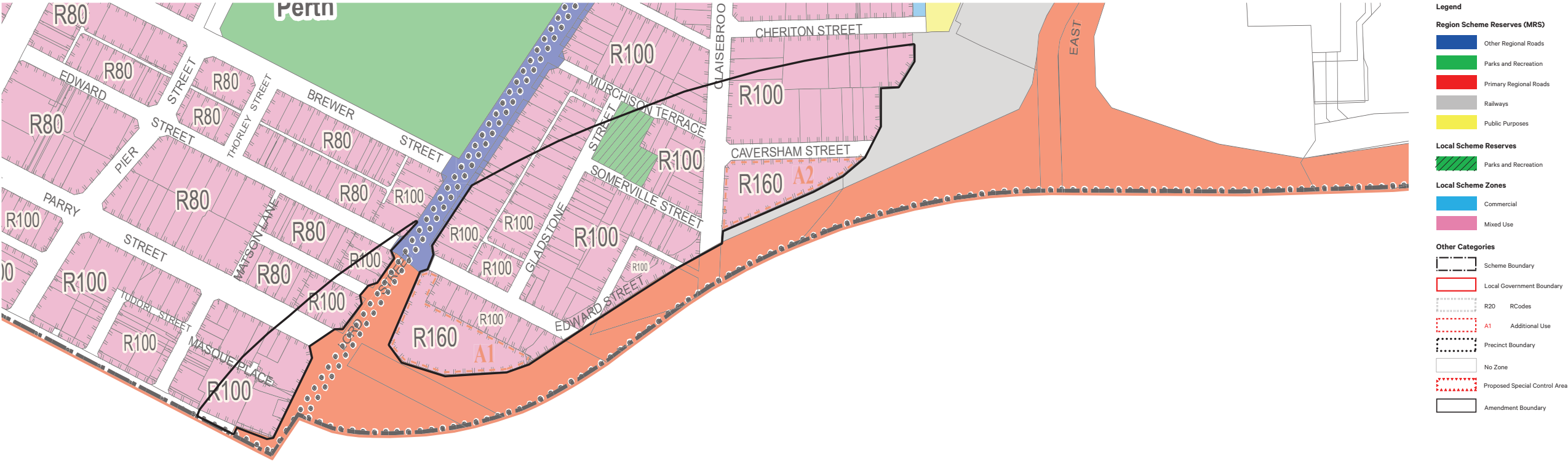
4. Insert Figures 1.1 to 1.4 into Schedule 4 – Special Control Areas of the Scheme.



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The amendment is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:

- The amendment is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission; and
- The amendment is not addressed by any local planning strategy.



Existing Zoning



Proposed Zoning

City of Vincent LPS 2 - Proposed Special Control Area

Royal Perth Hospital Flight Path

