



MINUTES OF SPECIAL MEETING OF COUNCIL HELD ON 9 MARCH 2010

I hereby certify that the Minutes of the Ordinary Meeting of Council held are a true and accurate record of the proceedings contained therein.

Shire President Confirmed

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SHIRE OF WYNDHAM-EAST KIMBERLEY

Minutes

**SPECIAL COUNCIL MEETING
HELD ON TUESDAY, 9 MARCH 2010 AT 6:00 PM**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting open at 6.01pm.

2. RECORD OF ATTENDANCE

Cr F Mills	Shire President
Cr J McCoy	Councillor
Cr J Parker	Councillor
Cr K Torres	Councillor
Cr J Moulden	Deputy Shire President
G Gaffney	Chief Executive Officer
J Ellis	Executive Manager Corporate Services
K Apperley	Executive Manager Community Services
I D'Arcy	Executive Manager Development Services
B Weaver	Executive Assistant
S Russell	Executive Support Officer (Minute Taker)
K Cripps	Senior Environmental Health Officer
J Ninnette	Town Planning Officer

GALLERY

Ord River Sailing Club Committee

APOLOGIES

Cr R Addis
Cr K Wright

LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Nil

3. DECLARATION OF INTEREST

- **Financial Interest**
Nil
- **Members Impartiality Interest**
Nil
- **Proximity Interest**
Nil

4. BUSINESS OF MEETING

4.1 TENDER 06 09/10 – WYNDHAM PICTURE GARDENS UPGRADE

DATE:	9 March 2010
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Lot 1134 and 1322 Civic Way Wyndham
AUTHOR:	Karyn Apperley, Executive Manager Community Services
REPORTING OFFICER:	Karyn Apperley, Executive Manager Community Services
FILE NO:	30.09.06, 66.58.06
ASSESSMENT NO:	N/A

PURPOSE

To inform Council of the outcome of Tender 06 09/10 for the upgrade of the Wyndham Picture Gardens and determine the most appropriate action.

BACKGROUND

The Wyndham Picture Gardens Upgrade is a project funded under the Australian Government's Kimberley Development Package.

At the Ordinary Council Meeting held on 15 September 2009, Council resolved to issue the tender and tender evaluation criteria:

Minute No. 8825

Moved:Cr P Caley

Seconded:Cr K Torres

1. *That Council issue tender T06 09/10 for the Upgrade of Wyndham Picture Gardens Infrastructure.*
2. *That Tenders are evaluated based on the capacity of the Tenderers to complete the requirements of the tender including:*
 - 2.1. *Compliance Criteria (must comply)*
 - a) *Compliance with Specifications contained in request.*
 - b) *Compliance with Conditions of Tendering contained in request.*
 - c) *Compliance with Quality Assurance requirements in request.*
 - d) *Compliance with Start Date and Project Timeline.*
 - e) *Compliance with and completion of Price Schedule.*
 - 2.2 *Qualitative Criteria (used to Rank Tenders)*
 - a) *Relevant Experience - 60%*
 - b) *Ability to meet Project Timeline - 40%*

2.3. Price Submitted for Tender

The tendered price along with the qualitative ranking will be used to determine the most advantageous tender to Council.

CARRIED UNANIMOUSLY: (8/0)

In addition, Council adopted an Indigenous Employment criteria for construction projects that require tenders to be invited at its Ordinary Council Meeting of 17 November 2009, and the tender evaluation criteria for Tender 06 09/10 Upgrade of Wyndham Picture Gardens was amended accordingly.

Finalisation of the tender documents was delayed until the Shire received the detailed certified construction plans arranged via the Wyndham Picture Gardens Committee) in late December 2009.

SITE AND SURROUNDS

The upgrade of the facility is to occur on the Wyndham Picture Gardens site, corner of Civic Way and Koolama Street Wyndham, which is owned by the Wyndham Picture Gardens Committee Inc. The project is being undertaken in partnership with the Committee.

STRATEGIC IMPLICATIONS

The Wyndham Picture Gardens facility has not been operational for some years due to the need to improve functionality of the facility. The provision of community facilities such as Picture Gardens/outdoor cinema is part of the essential cultural and social infrastructure of communities, in particular remote or regional communities.

STATUTORY IMPLICATIONS

The Local Government (Functions and General) Regulations 1996, Part 4 applies with the relevant extracts provided as follows: -

Division 2 — Tenders for providing goods or services

11. Tenders to be invited for certain contracts;

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless sub-regulation (2) states otherwise.*
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —*
 - (c) within the last 6 months —*
 - (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications.*

POLICY IMPLICATIONS

There are no specific policy implications associated with this report.

FINANCIAL IMPLICATIONS

External funding is secured for this project through the Australian Government's Kimberley Development Package and is to be achieved within that allocation, with in-kind contribution from the Wyndham Picture Gardens Committee and project management from the Shire.

COMMUNITY CONSULTATION

The plans and tender specifications were developed in consultation with the Wyndham Picture Gardens Committee. Consultation with the Wyndham Picture Gardens Committee is ongoing, with a Memorandum of Understanding under negotiation.

CONCLUSION/COMMENT

Tenders were issued on Thursday, 28 January 2010. The tender was advertised in the West Australian on 30 January and 6 February 2010 and the Kimberley Echo on 28 January 2010. The tender period closed at 2pm on Friday 26 February 2010, with no tenders being received.

As referenced above, under *Section 11(2)(c)(i)* of the *Local Government (Functions and General) Regulations 1996*, the Council is not required to publicly invite tenders where the Council has complied with the public tendering requirements within the past 6 months and no compliant tenders have been received.

The project comprises a number of stages or components including:

- Demolition
- Site preparation
- Plumbing works
- Slab construction
- Building construction
- Electrical works
- Painting and fit out

The conditions of the Australian Government funding require that the project be completed and all funds expended, externally audited and acquitted by 30 June 2010. Given the timeframe for the project, it may be considered more expedient to seek to achieve project completion by sub contracting components of the upgrade rather than re-tendering for the entire project. In this way, components such as demolition and site preparation could be commenced while direct requests for building/facility construction are being sought in accordance with Council's adopted purchasing policy and procedures.

ATTACHMENTS

Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. authorise the Chief Executive Officer under delegated authority to negotiate the necessary contracts to achieve the specifications of the Wyndham Picture Gardens Upgrade and the Australian Government's East Kimberley Development Package timeframe, given that no tenders were received through the publicly advertised tender process;
2. note that all contract negotiations will be undertaken in accordance with the Council's adopted purchasing policy and procedures; and
3. request the Chief Executive Officer to provide a report back to Council on the outcomes of negotiations and contracts awarded for the Wyndham Picture Gardens Upgrade.

COUNCIL DECISION

Minute No 9055

Moved: Cr K Torres

Seconded: Cr J Moulden

That Council:

1. ***authorise the Chief Executive Officer under delegated authority to negotiate the necessary contracts to achieve the specifications of the Wyndham Picture Gardens Upgrade and the Australian Government's East Kimberley Development Package timeframe, given that no tenders were received through the publicly advertised tender process;***
2. ***note that all contract negotiations will be undertaken in accordance with the Council's adopted purchasing policy and procedures; and***
3. ***request the Chief Executive Officer to provide a report back to Council on the outcomes of negotiations and contracts awarded for the Wyndham Picture Gardens Upgrade.***

CARRIED UNANIMOUSLY: (6/0)

4.2 LAKE KUNUNURRA COMMERCIAL BOAT LEASES – ADVERTISING OF REVISED PRIVATE TREATY LEASES

DATE:	9 March 2010
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Lake Kununurra Foreshore, Kununurra
AUTHOR:	Alex Douglas, Executive Manager Engineering and Regulatory Services
REPORTING OFFICER:	Alex Douglas, Executive Manager Engineering and Regulatory Services
FILE NO:	43.04.01
ASSESSMENT NO:	N/A

PURPOSE

For Council to consider approving the re-advertising of private treaty leases for Triple J Tours, Alligator Airways and the BBQ Boat.

BACKGROUND

Council has previously advertised the intent to enter in to private treaty leases with the three companies, as well as lease a lot within the area of Swim Beach to the Ord River Sailing Club Inc.

The advertising for the three commercial leases was undertaken in October/November 2008 and considered and accepted by Council in December 2008.

Re-advertising of the commercial leases and re-approving the lease for the Sailing Club is required due to the change in land description and Management Order for the lots to be leased.

On the basis of the previous advertising, it is proposed to advertise for the minimum 14 day period permitted by the Local Government Act 1996 and regulations.

STATUTORY IMPLICATIONS

Section 3.58 Of The Local Government Act 1995 Relates To Disposing Of Property:

3.58. Disposing of property

(1) In this section —

“**dispose**” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“**property**” includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to —

- (a) the highest bidder at public auction;
- (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property -
- (a) it gives Statewide public notice of the proposed disposition -
 - (i) describing the property concerned;
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given.
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include -
- (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to -
- (a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The previously agreed rate for the annual lease rental was \$7 per square metre. It is proposed to re-advertise using the same valuation on the basis that the delays in commencing the leases already approved have been outside of the control of the proposed lessees.

STRATEGIC IMPLICATIONS

Commercial boat operations on Lake Kununurra are expected to increase over time as the economy expands. Increased boat operations bring increased risk in terms of refuelling and sillage management, which have the potential to impact on water quality. It is considered appropriate to seek to better manage these issues by establishing defined point of operations for these operations.

COMMUNITY CONSULTATION

Section 3.58 of the Local Government dealing with disposing of property provides the required mechanism of public consultation in this matter. Should leases be established by tender, or auction the public becomes aware of this through advertising. Should leases be established by private treaty, the public is invited to make comment on the proposed lease.

COMMENT

The following information is proposed to be advertised with respect to the private treaty leases:

Proposed Lease	Lease Term	Size of Leased Land	Valuation	Lease Consideration	Proposed Purpose of Lease
Triple J Tours (Lot 506)	21 years	2208 m ²	\$7/ m ²	\$15,456 per annum	Tourism related purposes associated with Lake Kununurra, Caretakers Dwelling
Alligator Airways (Lot 509)	21 years	2134 m ²	\$7/ m ²	\$14,938 per annum	
BBQ Boat (Lot 508)	21 years	2785 m ²	\$7/ m ²	19,495 per annum	

The creation of the lots for leasing also required the provision of a 10 metre wide foreshore reserve for which the Shire has the power to licence the use of the area for purposes such as river access. It is proposed to deal with the licence provisions when considering the public submissions.

The lease for the Sailing Club does not require advertising as the use of the land is for recreational purposes however the finalisation of the lease has been delayed as a result of the creation of the new reserve land and withdrawal of the Department of Water from the majority of foreshore land (Reserve 41812).

ATTACHMENTS

Attachment 1: Deposited Plan 66529

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

1. That Council re-advertise the 21 year private treaty lease arrangements for Triple J Tours, Alligator Airways and the BBQ Boat and consider submissions following the expiration of a 14 day advertising period; and
2. That Council authorise the Shire President and Chief Executive Officer to negotiate and sign a 21 year lease with the Ord River Sailing Club Inc. as previously resolved for Lot 504 on Deposited Plan 66529.
3. That the three Companies above be advised in writing of the intended advertising.

COUNCIL DECISION

Minute No 9056

Moved: Cr D Ausburn

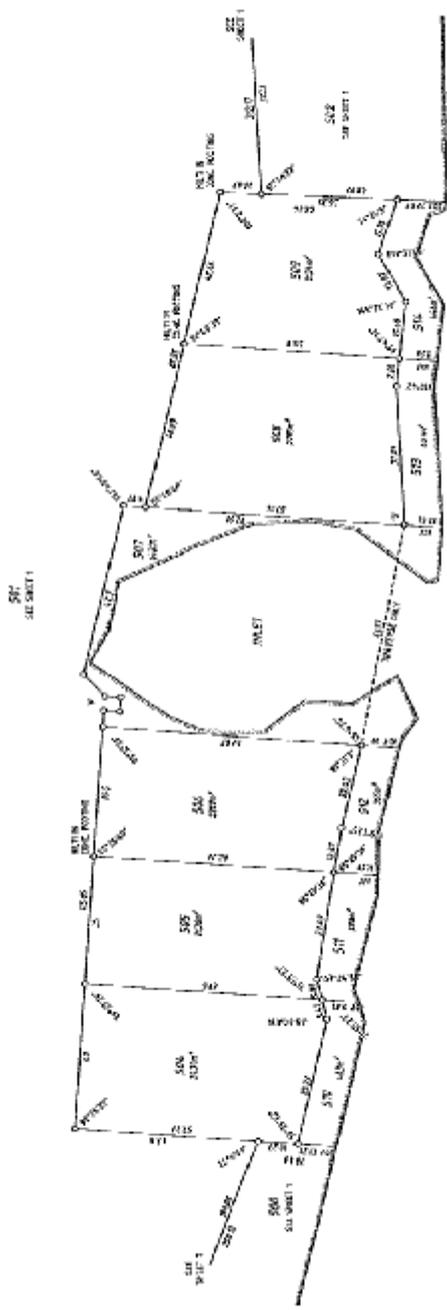
Seconded: Cr J Moulden

- 1. That Council re-advertise the 21 year private treaty lease arrangements for Triple J Tours, Alligator Airways and the BBQ Boat and consider submissions following the expiration of a 14 day advertising period; and**
- 2. That Council authorise the Shire President and Chief Executive Officer to negotiate and sign a 21 year lease with the Ord River Sailing Club Inc. as previously resolved for Lot 504 on Deposited Plan 66529.**
- 3. That the three Companies above be advised in writing of the intended advertising.**

CARRIED UNANIMOUSLY: (6/0)

FIELD BY LANDGATE
IN DIGITAL FORM ONLY.

PRO HEADS SEE SHEET 1



LAKE KONUKORRA

ALL DIMS ARE AS LONS
HALL MARKS UNLESS OTHERWISE SHOWN



<p>Landgate Western Australian Land Information Authority</p>	<p>66529</p>
<p>DATE: 20/03/2010 DRAWN BY: [Name] CHECKED BY: [Name] APPROVED BY: [Name]</p>	<p>PROJECT: [Name] SHEET: 1 OF 1</p>

4.3 TENDER 08-09/10 CONSTRUCTION OF PATIENT TRANSFER FACILITY

DATE:	9 March 2010
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	East Kimberley Regional Airport
AUTHOR:	Jo-Anne Ellis, Executive Manager Corporate Services
REPORTING OFFICER:	Jo-Anne Ellis, Executive Manager Corporate Services
FILE NO:	66.58.08
ASSESSMENT NO:	N/A

PURPOSE

To recommend to Council the awarding of Tender 08-09/10 Construction of Patient Transfer Facility at Lot 302A Dusty Rankin Drive, Kununurra.

BACKGROUND

Following a request from the St John Ambulance Kununurra Branch Council for airside land to construct and operate a patient transfer facility, Council resolved on 15 April 2008:

Minute No. 8158

Move: Cr D Ausburn

Seconded: Cr J Buchanan

- 1. That Council advise the Kununurra branch of St John Ambulance that it supports allocation of approximately 818m² of land being part of Lot 302 at the East Kimberley Regional Airport for the purpose of construction and operation by St John Ambulance of patient transfer station.*
- 2. That Council establish a 'peppercorn' 21 year lease for 818m² of land being part of Lot 302 at the East Kimberley Regional Airport for the purpose of construction and operation by St John Ambulance of patient transfer station.*

Carried Unanimously: 9/0

An opportunity for funding through the Australian Governments National Building program and East Kimberley Development Package was identified and \$400,000 was secured for this project.

Under this funding arrangement the patient transfer facility will be owned by the Council and leased to St John Ambulance who will be responsible for all maintenance and operational costs.

Council resolved to issue the tender on 20 October 2009.

Minute No: 8887

Moved:Cr D Ausburn

Seconded:Cr K Wright

1. *That Council issue Request for Tender T08 - 09/10 Construction of Patient Transfer Facility.*
2. *That Tenders are evaluated based on the capacity of the Tenderers to complete the requirements of the tender including:*
 - 2.1 *Compliance Criteria (must comply)*
 - a) *Completion of Tenderers Offer;*
 - b) *Compliance with Conditions of Tendering;*
 - c) *Compliance with Specification;*
 - d) *Corporate Information;*
 - e) *Financial Information;*
 - f) *Conflict of Interest; and*
 - g) *Insurance.*
 - 2.2 *Qualitative Criteria (used to Rank Tenders)*
 - a) *Relevant Experience - 50%;*
 - b) *Indigenous Employment Outcomes - 20%; and*
 - c) *Meeting Construction Deadline - 30%.*
 - 2.3 *Price Submitted for Tender*

The tendered price along with the qualitative ranking will be used to determine the most advantageous tender to Council.

SITE AND SURROUNDS

The site, on airport land, is owned by Council and cleared for construction.

STRATEGIC IMPLICATIONS

Patient transfer and Royal Flying Doctor Services are a vital service in the East Kimberley region.

STATUTORY IMPLICATIONS

The Local Government (Functions and General) Regulations 1996, Part 4 applies with the relevant extract provided as follows: -

Division 2 — Tenders for providing goods or services (s. 3.57)

11. Tenders to be invited for certain contracts:

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100,000 unless sub-regulation (2) states otherwise.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

External funding of \$400,000 is secured for this project through the Australian Government National Building program and East Kimberley Development Package. The recommended tenderer is within this budget.

COMMUNITY CONSULTATION

Consultation with Royal Flying Doctor and St John Ambulance is ongoing.

CONCLUSION/COMMENT

Tenders were issued on Saturday 30 January 2010. The tender was advertised in West Australian on 30 January and 6 February 2010 and Kimberley Echo on 4 February 2010. Tenders closed at 4pm and were opened at 4.05pm on Thursday 25 February 2010. Two tenders were received.

Both tenders met the Compliance Criteria. Assessment of the Qualitative Criteria determined both tenders were suitably qualified and experienced to undertake the works required.

On assessment of the prices submitted, one tender was clearly the most advantageous tender to Council.

The recommended tender is KGC Enterprises Pty Ltd at a tendered price of \$366,946.00 inclusive of GST.

ATTACHMENTS

Nil

OFFICER'S RECOMMENDATION

That Council awards tender T08-09/10 Construction of Patient Transfer Facility to KGC Enterprises Pty Ltd for the tendered price of \$366,946.00 inclusive of GST as the most advantageous to Council.

COUNCIL DECISION

Minute No 9057

Moved: Cr D Ausburn

Seconded: Cr J Parker

That Council awards tender T08-09/10 Construction of Patient Transfer Facility to KGC Enterprises Pty Ltd for the tendered price of \$366,946.00 inclusive of GST as the most advantageous to Council.

CARRIED UNANIMOUSLY: (6/0)

4.4 TENDER T13-09/10 UPGRADE OF TAXIWAYS A, B AND C AT EAST KIMBERLEY REGIONAL AIRPORT

DATE:	9 March 2010
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	East Kimberley Regional Airport
AUTHOR:	Jo-Anne Ellis, Executive Manager Corporate Services
REPORTING OFFICER:	Jo-Anne Ellis, Executive Manager Corporate Services
FILE NO:	66.58.08
ASSESSMENT NO:	N/A

PURPOSE

To recommend to Council the selection criteria for the tender for a contractor to construct the upgrade of taxiways A, B and C the East Kimberley Regional Airport.

BACKGROUND

A RADS grant has been received for this project.

SITE AND SURROUNDS

The site is airside airport land.

STRATEGIC IMPLICATIONS

The East Kimberley Regional Airport is vital infrastructure supporting the needs of the East Kimberley region. Strengthening taxiways A, B and C follows the upgrade of taxiway F in 2008/09 and precedes works required on the runway.

STATUTORY IMPLICATIONS

The Local Government (Functions and General) Regulations 1996, Part 4 applies with the relevant extract provided as follows: -

Division 2 — Tenders for providing goods or services (s. 3.57)

11. Tenders to be invited for certain contracts;

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless sub-regulation (2) states otherwise.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

This project is funded by 50% RADS funding and 50% transfer from Airport Reserve.

COMMUNITY CONSULTATION

Community Consultation is not required in relation to this item.

CONCLUSION/COMMENT

The following project timeline is proposed.

Tuesday 9 March 2010	Adoption of Tender Criteria
Thursday 11 March 2010	Advertise tender in Kimberley Echo
Saturday 13 March 2010	Advertise tender in West Australian
Thursday 1 April 2010	Tenders close 4pm
Friday 2 April 2010	Tender assessment
Monday 5 April 2010	Assessment Report to Council
Tuesday 6 April 2010	Special Council to award tender
Monday 3 May	Construction Commence (Must commence by this time but may commence earlier)
Monday 24 May 2010	Construction complete

ATTACHMENTS

Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council issue Request for Tender T13-09/10 Upgrade of Taxiways A, B and C at East Kimberley Regional Airport.

1. That Tenders are evaluated based on the capacity of the Tenderers to complete the requirements of the tender including:
 - 1.1. Compliance Criteria (must comply)
 - a) Completion of Tenderers Offer;
 - b) Compliance with Conditions of Tendering;
 - c) Compliance with Specification;
 - d) Corporate Information;
 - e) Financial Information;
 - f) Conflict of Interest; and
 - g) Insurance.
 - 1.2 Qualitative Criteria (used to Rank Tenders)
 - a) Relevant Experience - 50%;
 - b) Indigenous Employment Outcomes - 20%; and
 - c) Meeting Construction Deadline - 30%.

1.3. Price Submitted for Tender

The tendered price along with the qualitative ranking will be used to determine the most advantageous tender to Council.

2. That a Special Meeting of Council be held at 6pm on Tuesday 6 April 2010 to consider submissions and award tender.

COUNCIL DECISION

Minute No 9058

Moved: Cr D Ausburn

Seconded: Cr J Parker

That Council issue Request for Tender T13-09/10 Upgrade of Taxiways A, B and C at East Kimberley Regional Airport.

1. **That Tenders are evaluated based on the capacity of the Tenderers to complete the requirements of the tender including:**

1.1. Compliance Criteria (must comply)

- a) Completion of Tenderers Offer;**
- b) Compliance with Conditions of Tendering;**
- c) Compliance with Specification;**
- d) Corporate Information;**
- e) Financial Information;**
- f) Conflict of Interest; and**
- g) Insurance.**

1.2 Qualitative Criteria (used to Rank Tenders)

- a) Relevant Experience - 50%;**
- b) Indigenous Employment Outcomes - 20%; and**
- c) Meeting Construction Deadline - 30%.**

1.3. Price Submitted for Tender

The tendered price along with the qualitative ranking will be used to determine the most advantageous tender to Council.

2. **That a Special Meeting of Council be held at 6pm on Tuesday 6 April 2010 to consider submissions and award tender.**

CARRIED UNANIMOUSLY: (6/0)

5. MEETING CLOSURE

With all matters of Business complete the Shire President declared the meeting closed at 6.06 pm.