



**TOWN OF AMHERSTBURG  
COUNCIL MEETING  
Monday, January 20, 2014  
7:00 PM**

Council Chambers, 271 Sandwich Street South, Amherstburg

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**A G E N D A**

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**PRESENT**

Mayor Wayne Hurst  
Deputy Mayor Ron Sutherland  
Councillor Carolyn Davies  
Councillor Bart DiPasquale  
Councillor Robert (Bob) Pillon  
Councillor Diane Pouget  
Councillor John Sutton

Mike Phipps, Chief Administrative Officer  
Paula Parker, Deputy Clerk

**CALL TO ORDER**

The Mayor called the meeting to order at 4:06pm.

**DISCLOSURE OF PECUNIARY INTEREST & GENERAL NATURE THEREOF**  
*(In-Camera agenda items)*

There were no disclosures of pecuniary interest noted.

**SPECIAL IN-CAMERA MEETING**

Councillor Sutton moved, Councillor Pillon seconded:

**That Council move into an In-Camera Meeting of Council at 4:06pm., pursuant to Section 239 of the Municipal Act, 2001, as amended, for the following reasons:**

**ITEM A – Sherway Contracting – Section 239(2)(e) – litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; and, Section 239(2)(f) – advise that is subject to solicitor-client privilege, including communications necessary for that purpose**

**ITEM B – CAO Contract – Section 239(2)(f) – advice that is subject to solicitor-client privilege, including communications necessary for that purpose**

The Mayor put the Motion.

**Motion Carried**

**ADJOURNMENT OF IN-CAMERA MEETING**

**RESUMPTION OF REGULAR COUNCIL MEETING - 7:00 P.M.**

The Mayor called the meeting to order at 7:00pm.

**PRAYER**

The Deputy Clerk said prayer.

**DISCLOSURE OF PECUNIARY INTEREST & GENERAL NATURE THEREOF**  
*(Public Council Meeting agenda items)*

There were no disclosures of pecuniary interest noted.

**MINUTES OF PREVIOUS MEETING**

**Approval of Minutes**

Councillor Pillon moved, Councillor Sutton seconded:

**That the minutes be adopted by Council and that those confidential minutes of the closed sessions of Council remain confidential and restricted from public disclosure in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act:**

- 1. Regular Council Meeting Minutes - December 16, 2013**
- 2. Special Council Meeting Minutes - Planning - December 16, 2013**
- 3. Special Council Meeting Minutes - December 17, 2013**
- 4. Special Council Meeting Minutes - December 20, 2013**

Councillor Pouget noted that the present list within the minutes does not currently reflect alphabetical order and would like it changed.

The Mayor put the Motion.

**Motion Carried Unanimously**

Councillor Pouget moved, Deputy Mayor Sutherland seconded:

**That Council waive Rules of Procedure and allow Jason Lavigne to speak as a delegate regarding a petition for an independent audit.**

The Mayor put the Motion.

	<b>Yes/Concur</b>	<b>No/ Not Concur</b>
Councillor Davies	X	
Councillor DiPasquale	X	
Councillor Pillon	X	
Councillor Pouget	X	
Deputy Mayor Sutherland	X	
Councillor Sutton	X	
Mayor Hurst	X	

**Motion Carried Unanimously**

Councillor Davies requested that those already listed on the agenda be heard first.

## DELEGATIONS

### 9.1 Establishing Nature Trails - Greg Nemeth

Greg Nemeth addressed Council regarding wildlife and establishing nature trails in Amherstburg. A copy of Mr. Nemeth's speaking notes are attached to these minutes as an addendum.

Councillor Pouget moved, Councillor Davies seconded:

**That Council direct administration to report back on the clear cut referred to by the delegate.**

The Mayor put the Motion.

**Motion Carried**

Councillor Pouget moved, Deputy Mayor Sutherland seconded:

**That the delegate's notes be forwarded to the appropriate agencies.**

The Mayor put the Motion.

**Motion Carried**

Councillor Davies moved, Councillor Pillon seconded:

**That the delegation be received.**

The Mayor put the Motion.

**Motion Carried Unanimously**

### 9.2 Compressed Air Energy Storage - Rupp Carriveau (Refer to Notice of Motion # 24.1)

Rupp Carriveau addressed Council regarding the benefits of Compressed Air Energy Storage. Mr. Carriveau's attendance was requested by Councillor Davies in support of the Notice of Motion introduced on November 18, 2013 regarding Compressed Air Energy Storage.

Councillor Sutton moved, Councillor Pillon seconded:

**That Council bring forward Notice of Motion Item # 24.1 at this time.**

The Mayor put the Motion.

**Motion Carried Unanimously**

Councillor Davies moved, Councillor Pillon seconded:

**That the delegation be received.**

The Mayor put the Motion.

**Motion Carried**

Councillor Davies moved, Councillor Sutton seconded:

**To request administration to proceed with a feasibility study on Compressed Air Energy Storage in Amherstburg addressing the province of Ontario's need for Energy Storage and opportunity to provide non-tax revenues. This would include facilitating discussions with Ministry of the Energy and University of Windsor Engineering partners with an eye on financial benefits to the Town as an outcome.**

The Mayor put the Motion.

**Motion Failed**

Jason Lavigne addressed Council regarding a petition signed by Town residents concerning their wish to have an independent audit of the Town's current financial position. Mr. Lavigne stated that he would not submit the petition to the Ministry unless it was necessary to do so. This was dependent on whether an audit would be requested by Council.

Councillor Sutton moved, Deputy Mayor Sutherland seconded:

**That the delegation be received.**

The Mayor put the Motion.

**Motion Carried**

Councillor Sutton moved, Councillor Pillon seconded:

**That an immediate audit be conducted by the Ministry of Municipal Affairs regarding the Towns current financial position.**

The Mayor put the Motion.

	<b>Yes/Concur</b>	<b>No/ Not Concur</b>
Councillor Davies	X	
Councillor DiPasquale	X	
Councillor Pillon	X	
Councillor Pouget	X	
Deputy Mayor Sutherland	X	
Councillor Sutton	X	
Mayor Hurst	X	

**Motion Carried Unanimously**

**PRESENTATIONS**

**10.1 Asset Management Plan - Manager of Economic Development and Strategic Asset Planning (Refer to Report Item # 16.1)**

Councillor Pillon moved, Councillor Pouget seconded:

- 1. That the presentation be received.**
- 2. The report from the Manager of Economic Development and Strategic Asset Planning dated January 7, 2014 regarding the Town of Amherstburg Asset Management Plan be received, and;**
- 3. Council approve the Town of Amherstburg Asset Management Plan.**

The Mayor put the Motion.

**Motion Carried Unanimously**

**REPORTS – POLICE SERVICES**

**11.1 Crossing Guard Start Time**

Councillor Sutton moved, Deputy Mayor Sutherland seconded:

**It is recommended that:**

- 1. The information report from Chief of Police regarding Crossing Guard Start Times be received; and,**
- 2. Council amend Crossing Guard start times as soon as practicable.**

The Mayor put the Motion.

**Motion Carried Unanimously**

**REPORTS – COMMUNITY SERVICES**

No reports at this time.

**REPORTS – FINANCE**

**13.1 Amherstburg Land Holdings Limited Assessment Changes and Tax Write-offs**

Councillor Pillon moved, Deputy Mayor Sutherland seconded:

**It is recommended that:**

- 1. The report from the Supervisor of Revenue dated January 8, 2014 regarding Amherstburg Land Holdings Limited Assessment Changes and Tax Write-offs be received, and;**
- 2. Council approve the write-offs as presented and direct the Interim Director of Finance to sign the Section 40 Minutes of Settlement; and,**
- 3. By-law 2014-04, being a by-law to strike taxes from the tax roll and to adjust assessment values on properties, be taken as having been read three times and finally passed and the Mayor and Clerk be authorized to sign the same thereto.**

The Mayor put the Motion.

**Motion Carried**

**13.2 2014 Interim Tax Levy By-law**

Councillor Sutton moved, Councillor Pillon seconded:

**It is recommended that:**

- 1. The report from the Supervisor of Revenue dated January 8, 2014 regarding 2014 Interim Tax Levy By-law be received, and;**
- 2. By-law 2014-05 being a by-law to provide for an interim tax rate, the payment of taxes and, the application of a penalty and interest of 1.25 percent per month on taxes in default be taken as having been read three times and finally passed and the Mayor and Clerk be authorized to sign the same thereto.**

The Mayor put the Motion.

**Motion Carried**

**REPORTS – ENGINEERING AND PUBLIC WORKS**

**14.1 Kingsbridge Phase 4A – Initial Acceptance of Surface Works**

The Mayor asked that Council receive all reports at one time as the request for each is the same.

Councillor Sutton moved, Councillor Pillon seconded:

**It is recommended that:**

- 1. The report from the Manager of Engineering and Operations dated December 18, 2013 regarding Kingsbridge Phase 4A, 4B and 4C and 6A and 6B – Initial Acceptance of Surface Works be received; and,**
- 2. Council place the surface works on a 1-year maintenance period, commencing December 2, 2013.**

The Mayor put the Motion.

**Motion Carried**

**14.2 Kingsbridge Phase 4B – Initial Acceptance of Surface Works**  
As dealt with above.

**14.3 Kingsbridge Phase 4C – Initial Acceptance of Surface Works**  
As dealt with above.

**14.4 Kingsbridge Phase 6A – Initial Acceptance of Surface Works**  
As dealt with above.

**14.5 Kingsbridge Phase 6B – Initial Acceptance of Surface Works**  
As dealt with above.

#### **REPORTS – CORPORATE AND LEGAL SERVICES**

**15.1 Big Creek Watershed Plan- Summary of the Completed Plan**  
*(Refer to Council attachment or Town Website to view plan)*

The Mayor advised that this report has been deferred to the February 3, 2014 Regular Council meeting as ERCA representation could be at this meeting.

**15.2 County Official Plan - Final Draft for Consideration**

Deputy Mayor Sutherland moved, Councillor DiPasquale seconded:

**It is recommended that:**

- 1. The report from the Manager of Planning and Development Services dated January 6, 2014 regarding the County Official Plan, final draft for consideration, be received, and;**
- 2. Council authorize administration to request revisions to the County Official Plan based on the issues outlined in this report, and;**
- 3. Administration report back to Council with updates, as appropriate, on progress to address the final issues raised.**

The Mayor put the Motion.

**Motion Carried**

#### **REPORTS - CAO's OFFICE**

**16.1 Town of Amherstburg Asset Management Plan**  
As dealt with above.

**16.2 Former Water Tower Property on Alma Street and Venetian Drive - Declaration of Surplus Property**

Councillor Sutton moved, Councillor Davies seconded:

It is recommended that:

1. The report from the Manager of Economic Development and Strategic Asset Planning dated January 7, 2014 regarding the former water tower property on Alma Street and Venetian – declaration of surplus property be received, and;
2. Council declare the former water tower property located on the southeast corner of Alma Street and Venetian Drive surplus, and;
3. By-law 2014-06 being a by-law to declare surplus property and notice of intent to sell be taken as having been read three times and finally passed and the Mayor and Clerk be authorized to sign same.

The Mayor put the Motion.

**Motion Carried Unanimously**

### **INFORMATION REPORTS**

Deputy Mayor Sutherland moved, Councillor Pillon seconded:

**That the information reports be received.**

- a) **Municipal Insurance Program Update - 2013**
- b) **Accounts Paid for the Period of December 4, 2013 to January 7, 2014**

The Mayor put the Motion.

**Motion Carried**

### **CONSENT CORRESPONDENCE**

Councillor Davies moved, Deputy Mayor Sutherland seconded:

**That consent correspondence Item # b be referred to the Heritage Committee.**

The Mayor put the Motion.

**Motion Carried**

Councillor Pillon moved, Councillor Sutton seconded:

**That consent correspondence Items # a and # c be received.**

- a) **Small, Rural and Northern Municipal Infrastructure Fund - Letter from East Ferris**
- b) **Notice of Intent to Demolish - 274, 276, 278 Dalhousie**
- c) **OPP Billing Model - Bancroft Resolution**

The Mayor put the Motion.

**Motion Carried**

### **CONSENT OTHER MINUTES**

Councillor Sutton moved, Deputy Mayor Sutherland seconded:

**That the following minutes be received:**

- a) **Amherstburg Police Services Board Meeting Minutes - November 19, 2013**
- b) **Committee of Adjustment Meeting Minutes - October 29, 2013**

The Mayor put the Motion.

**OTHER MINUTES**

**20.1 Traffic Committee Minutes - November 6, 2013**

Councillor Pillon moved, Councillor Sutton seconded:

**It is recommended that:**

- 1. The Traffic Committee Minutes of November 6, 2013 be received; and**
- 2. Council concur with sending correspondence to Saint Jean the Baptist school reminding parents to adhere to the parking signage on Fryer Street and to not block driveways.**
- 3. Council concur that a Dead End sign be erected on Main Street North for informational purposes to drivers.**
- 4. Council concur with not adding rumble strips on the 4th Concession North at Alma and the 4th Concession South at County Road #20.**

The Mayor put the Motion.

**Motion Carried Unanimously**

**UNFINISHED BUSINESS**

Unfinished Business items as of Monday, January 20, 2014

Councillor DiPasquale moved, Councillor Pouget seconded:

**That administrative staff be directed to complete and provide to Council a detailed report examining and answering the following issues regarding our municipal reserve funds:**

- I) Dates of when the municipal reserve and reserve funds were last reconciled and who completed the reconciliation.**
- II) Provide an accounting of when the municipal reserve and reserve funds were used and the corresponding Council authorization to remove or use the reserve funds.**
- III) Provide an accounting of when the municipal reserves and reserve funds were reallocated to pay for either the operations or capital projects contained in an approved municipal budget.**
- IV) Determine whether there was a municipal resolution from Council or any direction from Council authorizing the transfer of reserves funds to pay for any operating or capital expenditure approved in the municipal budget.**
- V) Conduct a research and provide to Council any management letter completed by the current town auditors to Council or a management committee of Council that identified any management problems or comments made on the state of our reserve funds.**
- VI) Research and provide to Council any operating policy or policies regarding the removal or redistribution of reserve or reserve funds.**

The Mayor put the Motion.

**Motion Carried Unanimously**



## NEW BUSINESS

Deputy Mayor Sutherland moved, Councillor Pouget seconded:

**That Ray Tracey CEO of Essex Power be invited on behalf of Council to attend the February 3<sup>rd</sup>, 2014 Council Meeting in order to present a general picture of Essex Power Corporation and Amherstburg's role as shareholder and further that Mr. Bill Wark also be invited to attend.**

The Mayor put the Motion.

**Motion Carried Unanimously**

## REPORT FROM IN-CAMERA SESSION

Report from In Camera Meeting held Monday, January 20, 2014

### **COUNCIL IN CAMERA SESSION – REPORTING OUT January 20, 2014 MEETING**

Council met at 4:00 pm on January 20, 2014 for a Special In-Camera meeting and discussed two (2) items as provided for under Section 239 of the Municipal Act.

**ITEM A –** Sherway Contracting - heard under Section 239(2) (e) and (f) of the Municipal Act. As a result of that discussion, the following motion is before Council.

Councillor Sutton moved, Councillor DiPasquale seconded:

**That the recommendation from the Town Solicitor relating to Confidential In-Camera Cover # 14-01-20-01 regarding a litigation/potential litigation and solicitor-client privilege matter concerning Sherway Contracting be approved.**

The Mayor put the Motion.

**Motion Carried Unanimously**

**ITEM B -** CAO Contract – heard under Section 239(2)(f) of the Municipal Act. As a result of that discussion, the following motion is before Council.

Deputy Mayor Sutherland moved, Councillor Sutton seconded:

**That Council direct the Town Solicitor to bring back an amendment to the CAO Contract regarding monthly hours worked.**

The Mayor put the Motion.

**Motion Carried Unanimously**

It was also noted that the CAO advised Council during the In-Camera Session that he would be reducing his hours to no more than 170 hours per month and will provide all of Council will copies of the monthly invoices.

## NOTICES OF MOTION

- 24.1 **Councillor Davies - Compressed Air Energy**  
*(As introduced at the November 18, 2013 Regular Council meeting)*

As dealt with above.

24.2 **Councillor Pouget - Interception of Emails**  
(As introduced at the December 2, 2013 Regular Council meeting)

Councillor Pouget withdrew her motion on the advice of the Town Solicitor until administration has time to review the Town's Technology Use Policy to confirm there are no contradictions and recommend any changes necessary to the policy.

**BY-LAWS**

25.1 **By-law to Amend Agreement between Amherstburg Community Services and the Town (Housekeeping)**

Councillor Sutton moved, Deputy Mayor Sutherland seconded:

**That By-law 2014-01 being a by-law to Amend Agreement between Amherstburg Community Services and the Corporation of the Town of Amherstburg be taken as having been read 3 times and finally passed and the Mayor and Clerk be authorized to sign same.**

The Mayor put the Motion.

**Motion Carried Unanimously**

25.2 **By-law to amend Zoning By-law No. 1999-52, 9361 South Sideroad, Amherstburg**

Councillor Pillon moved, Councillor Davies seconded:

**That By-law 2014-02 being a by-law to Amend Zoning By-law No. 1999-52, 9361 South Sideroad be taken as having been read three times and finally passed and the Mayor and Clerk be authorized to sign same.**

The Mayor put the Motion.

**Motion Carried**

25.3 **By-law to amend Zoning By-law No. 1999-52, 7767 Howard Avenue, Amherstburg**

Councillor DiPasquale moved, Councillor Sutton seconded:

**That By-law 2014-03 being a by-law to Amend Zoning By-law No. 1999-52, 7767 Howard Avenue be taken as having been read three times and finally passed and the Mayor and Clerk be authorized to sign same.**

The Mayor put the Motion.

**Motion Carried Unanimously**

25.4 **Confirmatory By-law**

Deputy Mayor Sutherland moved, Councillor Sutton seconded:

**That By-law 2014-07 being a by-law to confirm all resolutions of the Municipal Council Meetings held on December 17 and 20, 2013, and January 20, 2014, be taken as having been read three times and finally passed and the Mayor and Clerk be authorized to sign same.**

The Mayor put the Motion.

**Motion Carried**

**ADJOURNMENT**

Deputy Mayor Sutherland moved, Councillor Sutton seconded:

**That Council rise and adjourn at 9:24 p.m.**

The Mayor put the Motion.

**Motion Carried**

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MAYOR – WAYNE HURST

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DEPUTY CLERK – PAULA PARKER

Addendum: Speaking notes of Greg Nemeth,

Mr. Mayor and members of council. Thank you for having me. Tonight I would like to present part of the preliminary process to possibly establish nature trails. Everyone should know the value and have an understanding what nature's ecosystems in Ontario are worth and whether nature communities deserve our undivided attention.

My name is Greg Nemeth. I am a ecosystem enthusiast. Photographing the Big Creek Wetland is my retirement hobby.

In 2009 the Ontario Ministry of Natural Resources did a complete study of the Big Creek Watershed. The Big Creek is 2500 acres or 4 square miles, drains 18000 acres of farm land and is home to more species at risk of extinction in Essex County than anywhere else.

During the OMNR study of the Big Creek Watershed 562 different species were recorded  
--The OMNR commented they rarely reach 500 species during a study  
--562 species were recorded because the Big Creek is a very diverse community—meaning many different types of vegetation attracting 47 families of birds of the 55 that make Canada home.  
--There were 259 species of faunal or animal recordings—159 different bird species which the OMNR commented again that 159 species of birds is remarkable. This is something seen during peak migration once thought only through Point Pelee National Park.  
--23 listed as Provincially rare, 14 animal species listed as species at risk, 3 endangered, 5 threatened  
--vegetation communities were over 100 recorded. Again it was emphasized as outstanding  
--Wetlands such as the Big Creek Wetlands are the most productive types of ecosystems globally. An abundance of many species is expected. Why is the Big Creek treated as though it is an ordinary pond?

The study was conducted from Lake Erie to Texas road.

Most diverse habitat was recorded at site 52 north of county road 16 which we no as Alma street. The OMNR study of site 52 includes restoration adjacent to agricultural lands to create a 240 metre buffer. The plan requires a site specific restoration plan if work is conducted according to the study.

The Big Creek has been declared a Significant Wetland. The Provincial Policy Statement requires significant wetland to be protected up to 120 metres or over 300 ft. on each side of the Big Creek .

--72% of Ontario's wetlands have disappeared since the start of European settlement  
--Wetlands act as a sponge and clean our water before it enters lakes and rivers.  
--Do we want trails near the Big Creek? If we take care of its ecosystem eventually trails could be a possibility.

The Big Creek is an ecosystem paradise and yet it is also abused with ATV'S, clear-cut and mature black walnut trees were bulldozed over and left to rot. Where is the protection? Why aren't the boundaries of Significant Wetland protected and the land posted? People should know the importance of significant habitat. People know of the Big Creek Watershed. Most don't realize the value.

Butterflies are in decline. Every butterfly that resides in this region has been photographed near the Big Creek north of county road 16. The Giant Tiger Swallowtail and Monarch butterfly as well..

The single biggest reason, the reason wildlife is declining globally. We are destroying wildlife habitat. We are taking too much land. Valuable flora and fauna habitat. If we care at all about wildlife. If we want to leave anything for the next generations, land near the most productive types of ecosystems must stay vacant and natural. If we want wildlife trails we need wildlife.

Mowing vegetation near a wetland community is counter productive. When we are near obvious wildlife habitat we need to be thinking about biodiversity or how am I affecting or destroying flora and fauna unnecessarily. Thicket, marsh, swamp, fence rows, trees lines, woodlots and bush. Wildlife is utilizing every type of habitat and trying desperately to survive. Wildlife is losing the battle.

## LAYING SIEGE to the LAST LINE OF DEFENCE

In November of 2013 a special report was sent to Dave Levac, who is speaker of the Legislative Assembly of Ontario. This 55 page report was sent by our Environmental Commissioner of Ontario, Gord Miller who reports directly to the Ontario Legislature. I will read two paragraphs so everyone can have somewhat of an understanding of the issues.

On June 30, 2008, Ontario's new *Endangered Species Act, 2007 (ESA)* came into force, replacing legislation from 1971 that was outdated and ineffective. The new *ESA* offered protection to an increased number of species and their habitats, as well as provided greater flexibility for implementation. In 2009, the Environmental Commissioner of Ontario (ECO) released a Special Report entitled *The Last Line of Defence: A Review of Ontario's New Protections for Species at Risk*. The ECO was supportive of the provincial government's new legislative framework for protecting species at risk, but raised numerous concerns surrounding the implementation of the *ESA*, especially the potential for misuse of the new Act's flexibility.

Over the past five years, the Ministry of Natural Resources (MNR) has struggled to fully implement the *ESA*. In particular, MNR has delayed implementation of several of the Act's key measures. Rather than meet statutory deadlines, MNR has relied excessively on its discretionary power to delay the preparation of nearly half of all required recovery strategies for species at risk. This in turn has caused downstream delays of government response statements and habitat regulations for individual species. In addition, MNR has struggled to develop an efficient approvals process for issuing permits under the *ESA* in a timely manner, due in part to a lack of sufficient policy direction.

On July 1, 2013, a series of regulatory amendments came into force that created broad exemptions from the Act's requirements to obtain government permission prior to harming a species at risk and/or its habitat. The importance of these regulatory changes has prompted the ECO to present this Special Report to the Legislative Assembly.

Species around the world are facing an unprecedented threat of extinction from a variety of stressors. Habitat loss has been identified as the single greatest threat to species at risk, coupled with pollution, over-exploitation, disease, invasive species and climate change.<sup>1</sup> Nearly one quarter of the world's mammals, one-third of the world's amphibian species and one in eight birds are considered globally threatened or extinct.<sup>2</sup> In Ontario, 215 species or species populations are listed under the *Endangered Species Act, 2007 (ESA)* as endangered, threatened, special concern or extirpated, and the province has many more imperiled species that have not had the benefit of being assessed and listed under the Act.<sup>3</sup>

This dramatic decline in biodiversity not only threatens the functioning of the ecosystems that we depend on for our air, water and food, but it also reduces the resilience of these ecosystems to environmental change.

Protecting at-risk species is not just a matter of conserving biodiversity, it is also about preserving the important personal connections that Ontarians have to our natural heritage, including the snapping turtles, monarch butterflies, bald eagles and woodland caribou that are part of our collective ecological community. The challenges we face in protecting and recovering species at risk are not insurmountable, but immediate, effective and sustained action is required.