

HAMILTON FIELD NATURALISTS CLUB



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Hon. Liliana D' Ambrosio
Minister for Energy, Environment and Climate Change
Level 16, 8 Nicholson St, East Melbourne, Victoria 3002

18 August 2017

Dear Minister

Re. **Request to examine the case for restoration of Sanctuary Status for Lakes Linlithgow and Bullrush in SW Victoria**

On 23 June 2015 we wrote to Hon. Lisa Neville (Minister for Environment, Climate Change & Water) asking her to consider the case for the restoring the sanctuary status of Lakes Linlithgow & Bullrush (Lake Reserves) that was supposedly lost in a revision of the Wildlife Act of 1975. Sanctuary status had been given in 1928 and no hunting had occurred there until 1985. A summary of issues and a history of correspondence on this case over 30 years is given in Appendices 1 & 2.

Hunting began on these lakes in 1985 when duck shooters were told that, due to a technicality, they could not be prosecuted. Shooting continued when there was water, with major impacts from 2013 and shooting of protected species (Freckled Duck) in 2014 and the dispersal of 50 Brolga in 2015. In 2017, duck hunting was allowed on Lake Linlithgow despite the presence there on 27 March of at least 530 Blue-billed Ducks and 32 Freckled Ducks, comprising about 80% of the waterbirds there. Subsequent counts by DELWP officers for the Game Management Authority (GMA) confirmed that more than 600 Blue-billed Ducks were present (a major portion of the population of this threatened species) yet duck hunting was allowed to proceed from the land (boats being banned) on the premise that few of the birds would be shot.

Mr Roger Hallam, a former National Party Member, Government Minister and Chairman of the GMA, addressed a meeting of the Southern Grampians Shire Council on 22 March 2017 and stated that any attempt to restore sanctuary status was going to be resisted (Hamilton Spectator 25 March 2017), threatening the Council that *'there's going to be an enormous fallout to any change in respect to the status of those lakes'*. Curiously, Mr Hallam also conceded that Lake Linlithgow had always been of minor significance to hunters (it is a large lake and is very often dry in autumn). It seems that conceding any sanctuary is regarded as being the 'thin end of the wedge' by Mr Hallam and the GMA.

There are now NO proclaimed sanctuaries on public land in SW Victoria and all of the large wetlands and most of the smaller wetlands and 'unoccupied' Crown Lands are open to duck hunting.

Lakes Linlithgow & Bullrush have hosted 60 species of waterbirds and are major feeding grounds for endangered migratory Sharp-tailed Sandpipers & Red-necked Stints. Flocks of up to 5,000 sandpipers have used these wetlands. The waders are protected under JAMBA (Japan), ROKMBA (Korea) and CAMBA (China) Aust. Migratory Bird agreements and wetlands such as these have Australian and international significance. The waders depend upon sites like these in autumn, a critical time when hunters continually disrupt the feeding activity needed to accumulate the body mass needed for the long-distance migration flights that follow. The lakes are also an important flocking site for Brolga, a threatened species in Victoria.

On the matter of restoration of sanctuary status to Lakes Linlithgow and Bullrush, on 2 Sept. 2015 we received a letter from Mr Peter Beaumont (Executive Director land Management Policy, DELWP), responding on behalf of Minister Neville. Mr Beaumont failed to address the substance of our application, referring only to the management of duck hunting. This was predictable since his response in 2014, on behalf of Mr Walsh (Minister for Agriculture & Food Security), to our enquiry regarding the restoration of sanctuary status to the lakes was *I can confirm that there is no current intention to confer 'Sanctuary Status' on Lake Linlithgow and Bullrush Swamp or prohibit duck hunting in those areas*. We were surprised that the Minister's advisors suggested Mr Beaumont respond, since his support for duck hunting and his opposition to any change in the status of the lakes for conservation was well known.

This case is complex in that there are technical issues that may have resulted in the environmental and public benefit/social merits of our submissions over 30 years being overlooked. A list of correspondence on this subject is presented in Appendix 2. A summary of some official views is given below.

Matters of Opinion – there are differences of opinion as to whether sanctuary status on the lakes was lost, what status a sanctuary has, and whether duck hunting is permitted on Lake Reserves.

- Joan Kirner (1985) *The Lake Linlithgow sanctuary can still be regarded as such, under a savings clause in the new Wildlife Act 1976 but it is not possible to prosecute for the shooting of game species due to a technicality in the new Act...When these areas are consolidated as a Lake Reserve, together with Bullrush Swamp, it will be possible to gazette regulations over the reserve. A regulation prohibiting hunting in the reserve will be considered at this time.*
- Hough (2005) stated that *hunting at these sites may require clarification by legislation.*
- Hull (2009) concluded that the lakes were sanctuaries and that hunting was NOT permitted.
- Walsh (Jul 2014) stated that the lakes were *unoccupied Crown Land... as there were no leases or licences over the areas* (hunting is permitted on ‘unoccupied’ Crown Land but, ironically, a grazing lease that would ‘occupy’ the land and might prevent hunting would degrade that environment).

Operational matters – DELWP & Game Victoria have not followed the prescription for refuges that was stipulated in Criterion 2 of the 1992 Strategy for the Review of Wildlife Reserves. *Each major hunting wetland must have at least one major refuge within a distance that permits waterbirds to move from hunted waters to the refuge without causing significant stress.* In 2015, in response to our notice of 50 Brolga at Lake Bullrush, the Game Management Authority ‘offered’ the Brolga and migratory waders Krause Swamp as a refuge – this small Swamp 200 m from shooters on Lake Bullrush was dry and Brolga would not use it. DELWP persisted in stating in the media that the Brolga had been provided an alternative refuge, despite our providing photographic evidence to the contrary. Lake Bullrush should have been closed to hunting.

Victorian Environmental Assessment Council – we have been informed that VEAC can, if requested by the Environment Minister, examine the legal/technical issues and the environmental case for restoration of sanctuary status of these lakes.

It seems, on the basis of past correspondence over 30 years, that it is not possible to obtain an objective, informed view from within DELWP that takes account of ecological and legal matters.

We believe that it is within your authority, as the Minister for Environment, to introduce a regulation to prohibit hunting in the Lake Reserves of Lakes Linlithgow and Bullrush and we would be pleased if that was the decision that you regarded as appropriate for conservation.

If you consider that the issues we raise here require further examination we would respectfully request that you engage VEAC, as an independent and unbiased authority, to examine the matter of restoration of Sanctuary Status for the Lake Reserves of Linlithgow and Bullrush.

We would welcome the opportunity to speak with you directly on this important matter if you were prepared to meet a deputation of two or three members from Hamilton Field Naturalists Club and BirdLife Australia (Hamilton branch).

Yours faithfully

Dr Rod Bird, OAM

Secretary,
Hamilton Field Naturalists Club

Appendix 1 – see attached

Appendix 2 – see attached

Appendix 1. – Summary of main points for restoration of sanctuary status of Lake Linlithgow & Lake Bullrush

Hamilton Field Naturalists Club, August 2017

1. Sanctuary status was conferred in the Game Act 1928

This status was allegedly lost in the 1975 revision of the Wildlife Act. Whether sanctuary status was lost has been a matter of opinion that could be resolved by an independent body (e.g. VEAC), who should also consider environmental issues.

2. There are NO large natural wetland sanctuaries for waterbirds in our region

Hunting began at the lakes in 1985 and sporadically thereafter, with major impacts from about 2013, shooting of Freckled Duck in 2014 and the dispersal of 50 Brolga in 2015. In response to informing DELWP of the Brolga at Lake Bullrush, the Game Management Authority ‘offered’ the Brolga and migratory waders Krause Swamp as a refuge – a small, dry wetland 200 m from Lake Bullrush. The birds could not use that. Allowing hunting at Lake Bullrush in 2015 was not in the spirit or letter of the regulations since it deprived Brolga of a flocking site at a time when there were no other wetlands in the district with water. In 2017, Lake Linlithgow had water in autumn and was open to duck hunting from the shores, despite the presence of more than 600 Blue-billed Duck and 32 Freckled Duck.

DELWP & Game Victoria have not followed the prescription for refuges that was stipulated in Criterion 2 of the 1992 Strategy for the Review of Wildlife Reserves. *Each major hunting wetland must have at least one major refuge within a distance that permits waterbirds to move from hunted waters to the refuge without causing significant stress.*

3. Sanctuaries are needed for wildlife conservation:

- Wetland habitats are shrinking because of climate change and series of dry years leaving little or no water in the lakes and swamps in summer/autumn. This is illustrated by data for Lake Linlithgow where the average water depth in February over the last 18 years (2000 to 2017) was only 19.2 cm (0-114 cm range) and the lake was dry in 11 of those years. The average depth of water in mid-Feb. for the previous 16 years (1984-99) was 151.6 cm (range 126-245 cm) and the lake was not dry at any time. Fortunately, Lake Bullrush is less prone to drying out and offers waterbirds some feeding/roosting habitat.
- A total of 126 bird species have been recorded at these lakes, including 60 species of waterbirds.
- In the absence of sanctuaries, waterbirds, including migratory waders and Brolga, have fewer places available for feeding or resting undisturbed by hunters. This is important in autumn when hunters continually disturb tiny waders such as Red-necked Stints and Sharp-tailed Sandpipers that are attempting to prepare their bodies for their long flight to Siberia.
- Lakes Linlithgow & Bullrush are major feeding grounds for endangered migratory Sharp-tailed Sandpipers & Red-necked Stints; flocks of up to 5,000 birds occur there. The waders are protected under JAMBA (Japan), ROKMBA (Korea) and CAMBA (China) Aust. Migratory Bird Agreements and arrangements are made to protect their habitat.
- Lakes Bullrush & Linlithgow have long been sanctuaries for Brolga, a threatened species in Victoria. These wetlands are an autumn flocking site, vital in the lead up to the breeding season. Hunting evicts Brolga from such sites and disperses them.

4 Recreational needs:

Residents and tourists need access to natural wetland reserves where shooting is not permitted. Under current duck hunting regulations, people who do NOT carry a hunting licence may in future be excluded from wetlands open to hunting from the hours of dawn to 10 am & 4 pm to dark – prime time for birdwatchers and fisher folk!

5 Impact of restoring sanctuary status to Lakes Linlithgow & Bullrush on duck hunting:

Restoring Sanctuary Status to Lakes Linlithgow & Bullrush will have very little impact on duck hunting opportunities or economics in the region.

All of the large wetlands in the region (including Lake Kennedy, Bradys Swamp, Bryans Swamp, Rocklands, Lake Bolac, Lake Muirhead and Tower Hill) are open to hunting, as are almost all of the river frontages, ‘Unoccupied’ Crown Lands, and privately owned wetlands.

Appendix 2. A summary of features of the wetlands & correspondence since 1985 concerning the Sanctuary Status of Lake Linlithgow & Lake Bullrush

Hamilton Field Naturalists Club, August 2017

Sanctuary status was conferred in 1928 and lasted until 1975 when it was supposedly inadvertently lost with the gazetting of the revised Wildlife Act. From 1985 to 2015, HFNC has sought to change that position.

1. Lake Linlithgow (LLIN) and Lake Bullrush (LBR) were formed when the Phase 2 lava flows about 2 million years ago left these areas on the Phase 1 basalt flows uncovered. LLIN covers about 1000 ha and is fed from Boonawah creek. LBR covers about 150 ha, fed from overflow from Krause Swamp.
2. The vegetation on the banks of LLIN has been substantially restored since 1975 by HFNC and Parks Victoria (PV). PV cancelled grazing licences in 2003 and engaged in a massive planting of trees indigenous to the area, finishing in 2009. HFNC assisted in that effort, planting in the NW end.
3. LLIN & LBR are, together, significant water bird areas, with several endangered migratory and Australian species feeding on the lake (10 species listed by JAMBA). We have seen up to 5,000 Sharp-tailed Sandpipers on these lakes on 2 occasions in the last 5 years. HFNC has monitored the birds of LLIN for 50 years and has published records
4. LLIN & LBR dry out periodically, often over autumn. George Augustus Robinson (Protector of Aborigines) found LLIN dry in 1841. In the last 18 summers (Feb 1999-2016) the lake has been dry by February in 11 years. The ave. water depth in Feb. for the 18 years was 13 cm. For the previous 15 years (Feb 1984-1998) there were no dry years and the ave. depth in Feb. was 158 cm. Earlier, floods in 1893, 1894, 1946, 1951, 1952 & 1956 saw water overflowing the banks of LLIN.
5. People from Hamilton, Peshurst and surrounding areas have long been accustomed to the lakes being sanctuaries where hunting was not permitted. Both waters have been popular for yachting, boating and wind-surfing when there has been water. LLIN has, until recent years, always been a place for picnics. It has also been a magnet for bird watchers. In 1975 there was a revision of the Wildlife Act. That revision left the status of the LLIN & LBR unresolved and duck hunters took full advantage..
6. In 1978 the Land Conservation Council's Final recommendations for the Corangamite Area were released. It recommended both LLIN & LBR be Lake Reserves and that the "*management authorities should recognise the importance of the recreation and wildlife values in their policies*"
7. In March 1985, the duck hunters were told by the DCE that they could not be prosecuted for shooting on the lakes. Shooting began. Until that time they had honoured the sanctuary status. Shooting had been permitted on the nearby Wildlife Reserves of Krause Swamp and Lake Kennedy.
8. HFNC to Minister Kirner in April 1985 – the Minister stated "*When these areas are consolidated as a Lake Reserve, together with Bulrush Swamp, it will be possible to gazette regulations over the reserve. A regulation prohibiting hunting in the reserve will be considered at this time*".
9. Joan Kirner's undertaking was never acted upon by the DCFL. That department was dominated by officials whose sole objective then (and now) seems to be to allow hunting on every reserve.
10. In 1992 there was a review of Wildlife Reserves by DCFL. Hunting had only been allowed in Wildlife Reserves when they had been further categorised as State Game Reserves in the Wildlife Act 1975. The review '*regularised*' the hunting in Wildlife Reserves by classifying most of them as State Game Reserves. (Hunting in other areas of Unreserved Crown land was also permitted)
11. The review stipulated that "*Each major hunting wetland must have at least one major refuge within a distance that permits waterbirds to move from hunted waters to the refuge without causing significant stress. If the refuge for a major hunting water is not effective, partial or full closure of the hunted water should be undertaken* [That requirement has been ignored in recent years at LBR].
12. HFNC to NRE in 1992 – regarding the sanctuary status of LLIN & adjacent wetlands.
13. HFNC to Minister Thwaites in Sep. 2003 – regarding sanctuary status of LLIN and adjacent wetlands, pointing out that hunting on any of the 5 wetlands in the complex was very detrimental to wildlife, especially Brolga. [a flock of 50 birds was evicted from the area in autumn 2014]
14. HFNC to Thwaites in Feb. 2005 – requesting a response from the previous letter.
15. DSE on behalf of the Minister to HFNC in 27 Feb. 2005 – "*The Department of Sustainability and Environment has sought advice on the legal status of 'sanctuary' and your interpretation that duck hunting 'cannot be legally prevented in these areas'. It does appear that Lakes Linlithgow and Bullrush continuing to have sanctuary status that prevents hunting at these sites may require clarification by legislation. There is no plan by the Government to introduce legislation*".
16. HFNC to Victorian Environmental Assessment Council (VEAC) in Oct 2005 – re. sanctuary status and request for VEAC to re-assess the situation.

17. VEAC to HFNC 18 Sep 2006 – “*without Terms of Reference from the Minister for Environment, VEAC cannot make a specific recommendation that all of these wetlands should be sanctuaries*” “*VEAC would not carry out an ad hoc investigation for a specific area such as the Lake Linlithgow wetlands, unless requested by the Minister*”.
18. HFNC to DSE 14 Oct 2006 – sanctuary status and duck hunting on LLIN & associated wetlands.
19. HFNC to DSE (J Holms) 30 Jan 2009 – conservation status of LLIN & associated wetlands
20. HFNC to DSE (J Holms) 14 Oct 2009 – conservation status of LLIN & associated wetlands
21. DSE (G Hull) to HFNC 7 Dec 2009 – “*Lake Linlithgow and Bullrush Swamp are designated Wildlife Sanctuaries and hunting is not permitted. Krause Swamp is a Nature Conservation Reserve and hunting is not permitted. Lake Kennedy is a State Game Reserve and hunting in the declared open season is permitted. Salt Lake [now Harnath Wildlife Reserve] is unreserved Crown Land and hunting of game and feral species is generally permitted...*”.
22. The regulations introduced in 2013 by the Liberal Government has enabled visitors who do not have a shooting permit and a gun to be prosecuted if they are found on or near a proclaimed wetland during the morning (dawn to 10 am) and afternoon (4 pm to after dark) in the duck-hunting season. Those regulations could be applied to LLIN and LBR. That is unreasonable because these lakes have always been open to visitors, including bird watchers who find the early morning the best time.
23. HFNC to Game Victoria & Minister Agric & Food Security 20 Mar 2014– shooting of protected species on LBR and matter of sanctuary status.
24. HFNC to Director Shire Futures, Southern Grampians Shire Council (SGSC) 21 Mar 2014 – sanctuary status LLIN & LBR
25. HFNC to Lisa Neville 21 Mar 2014 – sanctuary & duck shooting issues at LLIN & LBR. Advice from DEPI that PV & Land Vic consider that *both LLIN & LBR are unreserved Crown Land with no overriding legislative regulations. The title ‘Lake Reserve’ has no legislative basis.*
26. HFNC to Game Victoria 21 Mar 2014 – protection of endangered species at LBR- LLIN area
27. HFNC to Game Victoria 25 Mar 2014 – sanctuary status and LCC statement re. Lake Reserves
28. DEPI P Beaumont to HFNC 1 May 2014 - responding on behalf of P Walsh Minister for Agriculture etc. [His letter did not address the issue of sanctuary status but gave a custom response]
29. HFNC to DEPI Beaumont & Hon. P Walsh 10 May 2014 – LLIN & LBR are NOT State Game Reserves or Unreserved Crown Lands , which the Govt Website says hunting is allowed in. They are Lake Reserves and managed by PV & the Shire of Southern Grampians.
30. Hon P Walsh to HFNC 16 Jul 2014 – ‘*Duck hunting is currently permitted on Lake Linlithgow and Bullrush Swamp, which are unoccupied Crown Land*’. *The DEPI considers that Lake Linlithgow and Bullrush Swamp are unoccupied as no leases or licences exist over these areas*”
31. HFNC to P Walsh 21 Jul 2014 – the issue is about restoration of sanctuary status.
32. HFNC to Lisa Neville 21 July – update on LBR & LLIN
33. HFNC to M McCarthy SGSC 21 Jul 2014 – update on LLIN & LBR situation
34. DEPI Beaumont to HFNC 1 Sep 2014 – “*there is no current intention to confer Sanctuary Status on Lake Linlithgow and Bullrush Swamp or prohibit duck hunting in those areas*”
35. HFNC to M McCarthy SGSC 16 Dec 2014 – update .
36. HFNC to Lisa Neville Minister for Environment 17 Dec 2014 – sanctuary status for LLIN & LBR
37. Min Environment to HFNC 23 Dec 2014 – response forthcoming shortly from the Minister
38. HFNC to L Neville, Minister for Environment 23 June 2015 – request to consider the case for restoration of sanctuary status for LLIN & LBR
39. DEPI Beaumont on behalf of Min Environment, to HFNC 2 Sep 2015 – the response discussed Broilga concerns (a flock of 50 were displaced by hunters on LBR this year) and general duck season management BUT did not address the issue that we raised with the Minister.

Key reflections on this saga:

- Since 1975 the Environment Departments have been resolute in refusing restoration of sanctuary status, perhaps as a consequence of the influence that duck shooters hold in the department
- There is no solid view from officials as to the facts around ‘sanctuary’ status (see 15, 21, 25, 30)
- The DEPI definition of “unoccupied” is contrary to fact– a term to allow duck hunting (see 30)
- The Minister can request VEAC examine the case for restoration of sanctuary status for LLIN & LBR. That will bypass the blocking influence of the duck-shooting lobby in DELWP & DEDJTR.
- DELWP and GMA have ignored the provisions for ‘refuges’ in their own act (see 6 & 11) – there is no sanctuary in the region, therefore no possibility of honouring that obligation.