


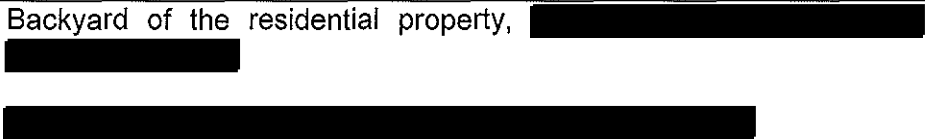
Application for a



Office of
Environment
& Heritage

Section 91 Licence

under the *Threatened Species Conservation Act 1995* to harm or pick a threatened species, population or ecological community* or damage habitat.

1. Applicant's Name ^: (if additional persons require authorisation by this licence, please attach details of names and addresses)	Mr Adair & Mrs Mardi DURIE	
2. Australian Business Number (ABN):	Not applicable	
3. Organisation name and position of applicant ^: (if applicable)	Not applicable	
4. Postal address ^:	PO Box 999, Lane Cove, NSW, 1595	
5. Location of the action (including grid reference and local government area and delineated on a map).	Backyard of the residential property,  Local Council Area: Lane Cove Council See maps below...	

* A threatened species, population or ecological community means a species, population or ecological community identified in Schedule 1, 1A or Schedule 2 of the *Threatened Species Conservation Act 1995*.

^The personal details of all Section 91 licences will be displayed in the register of Section 91 licences required under Section 104 of the *Threatened Species Conservation Act 1995*. See notes.

6. Full description of the action and its purpose
(e.g. environmental assessment, development, etc.)

Removal of Hills Weeping Fig tree at the back of the residential property at [REDACTED] Lane Cove.

This tree is having a horrible effect on our lives.

During the 6 months of the year around winter:

- Our backyard gets no sunshine, resulting in my young family not being able to go/play in our backyard as it is always a boggy mess.
- Our clothes do not dry on the clothesline, even on sunny days, resulting in us having to constantly use our clothes-dryer which substantially increases our energy bills and is bad for the environment and our clothes.
- Our 3 children (8, 6 and 2), particularly our 6-year old, has asthma issues during winter, although each of them has experienced some issues requiring seeing a GP, due to large amounts of mould growing in our house due to its dampness, as the house has no chance to dry out, even on sunny winter days
- All our 3 children have a very high incidence of respiratory infections during winter as our house is extreme cold, as it does not gain warmth from the sun, even on sunny days. This also results in us using many indoor heaters, again increasing our energy bills and damaging the environment.

During the summer months, Grey-headed Flying-foxes fly to the tree between 9pm and 2am. This does not happen every day, but on average 4 days per week. They do not roost in the tree. They come only to feed, but by doing so they drop faeces all over the backyard, so even in the summer months when the ground is relatively dry (it is still commonly a boggy mess, as there is only a few hours even on summer days when the sun hits the ground), our children can't go/play in our backyard. That is, for the most part, our backyard is a waste of space in both summer and winter!!! The only exception is the trampoline, although we need to continually clean the bats' faeces off it in the summer months for the children to play on it.

Our 2 dogs eat the faeces dropping from the Grey-headed Flying-foxes and my wife is terrified about our dogs catching the Hendra virus and passing this on to our children. Although horses are the most common animal infected with the Hendra virus, now there has been a case of a dog infected by the Hendra virus: see this Queensland Government website:

http://access.health.qld.gov.au/hid/InfectionsandParasites/ViralInfections/hendraVirusInfection_fs.asp

Humans are able to catch the Hendra virus from horses by having close contact with infected horses. Our children definitely have this sort of close contact with our dogs (our 6-year old kisses them!), and 7 people have died from the Hendra virus, and we don't want to place our children in any further risk than we already have of catching this fatal disease. As well as the Queensland Government website above, please also see this NSW Government website to verify this information about the Hendra virus, flying foxes and human deaths:

<http://www.health.nsw.gov.au/factsheets/infectious/hendra.html>

Also, cases such as an 8-year old boy recently dying from lyssavirus from a bat has added to our fear of these Flying-foxes:

[http://www.smh.com.au/national/boy-dies-after-contracting-bat-virus-](http://www.smh.com.au/national/boy-dies-after-contracting-bat-virus-20130223-2exrv.html)

[20130223-2exrv.html](http://www.smh.com.au/national/boy-dies-after-contracting-bat-virus-20130223-2exrv.html) - in this article, the Queensland Premier says, *"If you find a dead bat in the backyard, bury it deep so the dog can't get it. But do not handle it yourself."* This is something very hard to ensure your 2-year old understands!

These Grey-headed Flying-foxes that the tree attracts during summer months make extremely loud noises. This makes sleeping before 2am very difficult. This has had a very large negative impact on our lives during the day, especially on our children as they have been tired at school, as well as my wife and I struggling through work due to tiredness. Furthermore, this has had a horrible impact on our children when they are in their early years, in which our youngest currently is, as the nights have become living nightmares until the flying foxes fly away at around 2am.

This large fig tree is far too tall to provide privacy. We want to plant a row of appropriate natives in its place. This is very important for both our family and the family of our back neighbours in order to provide adequate privacy. At the moment, the back neighbours can see straight through our house, including the path between our bathroom and main bedroom, which has occasionally been very embarrassing. We also end up watching our neighbours eat breakfast and dinner and watch their kids do their homework. It is very troubling that we can't appropriately fix this problem.

The roots of this tree are a major tripping and equipment hazard as they protrude a significant way above ground from the base of the tree, again making use of the backyard difficult.

The trunk of the tree has become so large that it is lifting the back fence. This is a major cause for concern as our back neighbours have a Rottweiler-cross, and we have three young children and two small dogs. Despite our back neighbour's best endeavours and continual attention, the Rottweiler-cross has

	<p>frequently been able to get into our backyard by digging under the most recently lifted areas of the fence. We are obviously concerned about safety.</p> <p>All our surrounding neighbours strongly support us in our removal request, and in fact have provided statutory declarations supporting the removal of the tree. These are attached to this application.</p> <p>This tree is a massive problem for us and our neighbours that is not going to go away, and nor is the serious fear that our family has of the bats that the tree attracts. As its size continues to grow, the above mentioned issues are becoming worse. Please help us to put an end to this on-going and escalating huge problem by allowing us to remove this tree.</p> <p>If we are not able to remove this tree, we feel we have no other option than to sell our home, which we previously wanted to live in for the next few decades. In order to do so, we would be only be passing on this living nightmare to another member of the community, as we had no idea of the terrible impact that this tree would have on our lives when we bought the property. We now know why the ownership turnover of our house has been so high, while our neighbours have been in their places for over 20 years!</p>
7. Details of the area to be affected by the action <i>(in hectares)</i> .	<p>The canopy of the Hills Weeping Fig tree at the back of the residential property at [REDACTED] Lane Cove affects approximately 0.25 hectares. This consists of space in our backyard and the backyards of our surrounding neighbours.</p> <p>The removal of this tree will result in these areas receiving more sunlight and being able to sustain more appropriate floral for residential living, which will be planted in our backyard and in the backyards of our neighbours.</p>
8. Duration and timing of the action <i>(including staging, if any)</i> .	<p>The action is in two stages.</p> <p>The first stage is the removal of the fig tree. This will most likely happen over both days of a weekend.</p> <p>The second stage is the planting of natives to fill the space left by this fig tree. This initial planting will occur within weeks of the removal.</p>
9. Is the action to occur on land declared as critical habitat*? <i>(tick appropriate box)</i>	<p>No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p>* Critical habitat means habitat declared as critical habitat under Part 3 of the <i>Threatened Species Conservation Act 1995</i>.</p>	

10. Threatened species, populations or ecological communities to be harmed or picked.	<u>Scientific name</u> <i>Pteropus poliocephalus</i>	<u>Common name</u> Grey-headed Flying-fox	<u>Conservation status</u> Vulnerable	<u>Details of no. of individual animals, or proportion and type of plant material</u> Up to 40, maybe 50. They fly to the tree at night in the summer months when the tree has figs on it, and eat the figs. They do not sleep in the tree. They do not breed in the tree. They do not roost in the tree. They are never stationary in the tree. They only land in the tree, eat in the tree, "party" in the tree, drop faeces from the tree, and then fly away!
11. Species impact: (please tick appropriate box) a) For action proposed on land declared as critical habtat; or b) For action proposed on land <u>not</u> declared as critical habitat.	an SIS is attached <input type="checkbox"/> Yes <input type="checkbox"/> No Items 12 to 25 have been addressed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
N.B: Provision of a species impact statement is a statutory requirement of a licence application if the action is proposed on critical habitat.				

The provision of information addressing items 12 to 17 is a statutory requirement of a licence application if the action proposed is not on land that is critical habitat. Information addressing any of the questions below must be attached to the application.

<p>12. Describe the type and condition of habitats in and adjacent to the land to be affected by the action.</p>	<p>The tree is located in the backyard of a residential property in the relatively leafy suburb of Lane Cove.</p> <p>The adjacent lands are other people's backyards.</p> <p>There are reserves nearby, including the large Lane Cove National Park that contains generous amounts of the Grey-headed Flying-foxes primary food:</p> <p><i>"Nectar and pollen from the flowers of eucalypts (genera Eucalyptus, Corymbia and Angophora), melaleucas and banksias"</i> – see: http://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon_id=186#feeding</p>
<p>13. Provide details of any known records of a threatened species in the same or similar known habitats in the locality (include reference sources).</p>	<p>None.</p>
<p>14. Provide details of any known or potential habitat for a threatened species on the land to be affected by the action (include reference sources).</p>	<p>None.</p>

<p>15. Provide details of the amount of such habitat to be affected by the action proposed in relation to the known distribution of the species and its habitat in the locality.</p>	<p>One (1) Hills Weeping Fig tree in the backyard of a residential property, in the relatively leafy suburb of Lane Cove, is to be removed by the proposed action.</p> <p>There are no other Hills Weeping Fig trees in our backyard. However, there are many Hills Weeping Fig trees in the immediate Lane Cove area, and Hills Weeping Fig trees are common in Sydney:</p> <ul style="list-style-type: none"> • http://www.cityofsydney.nsw.gov.au/Environment/TreeManagement/HydePark/default.asp • http://www.cityofsydney.nsw.gov.au/council/onexhibition/documents/Precinct15Pymont.pdf • http://www.metrotrees.com.au/treehandbook/page-listings/ficus-microcarpa-var-hillii.html • http://thelonedrainerandpronto.com.au/blog/what-is-the-hills-weeping-fig/ • http://www.chilliwebsites.com/sitefiles/3466/File/Sydney%20Water%20-%20How%20You%20Can%20Help%20Stop%20Blockages.pdf <p>The flying-foxes do not roost in the Hills Weeping Fig tree to be removed by the proposed action.</p> <p>Grey-headed Flying-foxes can travel up to 50km each night. The fruit of the Hills Weeping Fig tree is not the primary food for Grey-headed Flying-foxes. However, the reserves nearby and the nearby Lane Cove National Park contain generous amounts of the the Grey-headed Flying-foxes primary food, which is "<i>Nectar and pollen from the flowers of eucalypts (genera Eucalyptus, Corymbia and Angophora), melaleucas and banksias</i>" (see: http://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon_id=186#feeding). This tree is not of any importance to the population. Furthermore, the fact that the flying-foxes, during the days of the summer months, sometimes choose to fly to the tree to eat its fruit and sometimes do not, further displays that the tree is not important to the known distribution of the species and its habitat in the locality.</p>
<p>16. Provide an assessment of the likely nature and intensity of the effect of the action on the lifecycle and habitat of the species.</p>	<p>None.</p> <p>The Grey-headed Flying-foxes do not roost in the tree, and there are other sources of the same food and their primary food easily available in the area.</p>
<p>17. Provide details of possible measures to avoid or ameliorate the effect of the action.</p>	<p>Removal of the tree will occur during the day when there are no visiting Grey-headed Flying-foxes in the vicinity.</p> <p>Locally indigenous tree species nominated by the Lane Cove Council Tree Preservation Officer will be planted in the area made vacant by the removal of the Hills Weeping Fig tree.</p>

N.B: The Director-General must determine whether the action proposed is likely to significantly affect threatened species, populations or ecological communities, or their habitats. To enable this assessment the Applicant is required to address items 18 to 24. Any additional information referred to in addressing these items must be attached to the application.

<p>18. In the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction.</p>	<p>The chance of the action having an adverse effect on the life cycle of the species, such that a viable local population is likely to be placed at risk of extinction, is negligible.</p> <p>The Grey-headed Flying-foxes do not roost in the tree and there are many other similar trees in the area to obtain the food when in season.</p>
<p>19. In the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction.</p>	<p>Grey-headed Flying-foxes are not an endangered population.</p>
<p>20. In the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:</p> <p>(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or</p> <p>(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of</p>	<p>The Grey-headed Flying-foxes do not roost in the tree and there are many other similar trees in the area to obtain the food when in season.</p> <p>As the action only relates to the removal of 1 tree, it is considered unlikely to adversely affect the extent or composition of the endangered ecological community.</p>

extinction.	
<p>21. In relation to the habitat of a threatened species, population or ecological community:</p> <p>(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and</p> <p>(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and</p> <p>(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality.</p>	<p>i) 1 tree in which the Grey-headed Flying-foxes do not roost and which does not provide its primary food source, but which the flying-foxes frequently visit during the summer months to eat from, is to be removed.</p> <p>ii) The fact that the flying-foxes, during the days of the summer months sometimes fly to the tree to eat its fruit, and sometimes do not, further displays that they will not become fragmented or isolated.</p> <p>iii) The fact that the animals do not roost in the tree and sometimes eat the tree's fruit, and sometimes do not, displays that the tree is not important to the long-term survival of the species, population or ecological community in the locality.</p>
22. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).	No. There will be no effect on critical habitat.
23. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.	<p>The proposed action does not remove a roosting site, which is consistent with such plans.</p> <p>The proposed action does remove "a" food source for the Grey-headed Flying-foxes. However, this food source is not a primary food source and, more importantly, it is not a winter food source, which are the focusses of such plans. Therefore the proposed action is consistent with such plans, although the proposed action does not further any objectives of such plans.</p>
24. Whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key	<p>The proposed action does not constitute and is not part of a key threatening process</p> <p>(http://www.environment.nsw.gov.au/threatenedspecies/aboutKTPSi nNSW.htm)</p>

Important information for the applicant

Processing times and fees

The *Threatened Species Conservation Act 1995* provides that the Director-General must make a decision on the licence application within 120 days where a species impact statement (SIS) has been received. No timeframes have been set for those applications which do not require a SIS. The Director-General will assess your application as soon as possible. You can assist this process by providing clear and concise information in your application.

Applicants may be charged a processing fee. The Director-General is required to advise prospective applicants of the maximum fee payable before the licence application is lodged. Therefore, prospective applicants should contact the Office of Environment and Heritage (OEH) prior to submitting a licence application.

A \$30 licence application fee must accompany a licence application.

Protected fauna and protected native plants*

Licensing provisions for protected fauna and protected native plants are contained within the *National Parks and Wildlife Act 1974*. However, a Section 91 Licence may be extended to include protected fauna and protected native plants when these will be affected by the action.

If you are applying for a licence to cover both threatened and protected species please provide the information requested in Item 10 as well as a list of protected species and details of the number of individuals animals or proportion and type of plant material which are likely to be harmed or picked.

Request for additional information

The Director-General may, after receiving the application, request additional information necessary for the determination of the licence application.

Species impact statement

Where the application is not accompanied by a SIS, the Director-General may decide, following an initial assessment of your application, that the action proposed is likely to have a significant effect on threatened species, populations or ecological communities, or their habitats. In such cases, the *Threatened Species Conservation Act 1995* requires that the applicant submit a SIS. Following initial review of the application, the Director-General will advise the applicant of the need to prepare a SIS.

Director-General's requirements for a SIS

Prior to the preparation of a SIS, a request for Director-General's requirements must be forwarded to the relevant OEH Office. The SIS must be prepared in accordance with section 109 and 110 of the TSC Act and must comply with any requirements notified by the Director-General of OEH.

* Protected fauna means fauna of a species not named in Schedule 11 of the *National Parks and Wildlife Act 1974*.

Protected native plant means a native plant of a species named in Schedule 13 of the *National Parks and Wildlife Service 1974*.

Disclosure of Personal Information in the Public Register of s91 Licences

The Public Register provides a list of licence applications and licences granted. A person about whom personal information is contained in a public register may request that the information is removed or not placed on the register as publicly available.

Copies of all applications and licences issued under section 91 and certificates issued under section 95 of the Act are available on the OEH website at

www.environment.nsw.gov.au/threatenedspecies/S91TscaRegisterByDate.htm
or in hardcopy form from The Librarian, OEH, 59 Goulburn St, Sydney.

Certificates

If the Director-General decides, following an assessment of your application, that the proposed action is not likely to significantly affect threatened species, populations or ecological communities, or their habitats, a Section 91 Licence is not required and the Director-General must, as soon as practicable after making the determination, issue the applicant with a certificate to that effect.

N.B: An action that is not required to be licensed under the Threatened Species Conservation Act 1995, may require licensing under the National Parks and Wildlife Act 1974, if it is likely to affect protected fauna or protected native plants.

I confirm that the information contained in this application is correct. I hereby apply for a licence under the provisions of Section 91 of the *Threatened Species Conservation Act 1995*.

Applicant's name
(Please print)


Adair Durie

ADAIR DURIE

Applicant's Position &
Organisation (if relevant)
(Please print)

Applicant's signature

Date


1/3/2013

For more information or to lodge this form, contact the nearest branch of OEH's Conservation and Regulation Division:

Metropolitan Branch
P: 02 9995 6802
F: 02 9995 6900
PO Box 668
Parramatta
NSW 2124

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