

ADOPTED	VERSION NO	1.0
EXECUTIVE MEETING: 12 February 2020	REVIEW DATE	FEBRUARY 2024
	FILE NUMBER	LAW100018

Objective

Outline the procedure undertaken to have companion animals registered as assistance animals under the Companion Animals Act.

Detail the documentation the Council holds supporting the NSW Companion Animals Register of an assistance animal.

Legislative requirements

Companions Animals Act 1998
Companion Animals Regulation 2018
Disability Discrimination Act 1992 (Cth)

Related policies and plans

- Office of Local Government Guideline on the Exercise of Functions under the Companion Animals Act November 2013
- MWRC Companion Animals Policy

Definitions

What is an assistance animal?

The NSW Companion Animals Act s5 *Definitions* state that an **assistance animal** means an animal referred to in section 9 of the [Disability Discrimination Act 1992](#) of the Commonwealth, but does not include a working dog.

For the purpose of the Disability Discrimination Act, an assistance animal in NSW is a dog or other companion animal that is either:

- Accredited under a law of a State or Territory that provides for the accreditation of animals trained to assist a person with a disability to alleviate the effect of that disability; OR
- Accredited by an animal training organisation prescribed by the Commonwealth; OR
- Trained to assist a person with a disability to alleviate the effect of that disability, and, to meet standards of hygiene and behaviour appropriate for an animal in a public place.

A declared dangerous dog or a restricted breed under the NSW Companions Animals Act cannot be registered as an assistance animal.

What is a disability?

The Disability Discrimination Act defines disability in relation to a person being;

- (1) total or partial loss of the bodily or mental functions;
- (2) total or partial loss of a part of the body;
- (3) the presence in the body of organisms causing disease or illness;
- (4) the presence in the body of organisms capable of causing disease or illness;
- (5) the malfunction, malformation or disfigurement of a part of the person's body;
- (6) a disorder or malfunction that results in the person learning differently; OR
- (7) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour and includes a disability that:
- (8) presently exists; or
- (9) previously existed but no longer exists; or
- (10) may exist in the future (including because of a genetic predisposition to that disability);
- (11) is imputed to a person.

To avoid doubt, a **disability** that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.

Councils Procedures

NOTE: All enquiries regarding the registration of an assistance animal must be referred to Councils Rangers. A copy of this procedure must be given to residents enquiring about registering an assistance animal. Council Rangers are responsible for managing the registration of assistance animals in accordance with this procedure.

What does the owner of an assistance animal need to do?

Like all other companion animals, assistance animals need to be micro-chipped and registered in NSW. However, no fee is charged for registering an assistance animal if the animal is not already registered.

Registration lasts for the life of each animal. If there is a change address or the animal goes missing or dies, the owner must notify council.

It is strongly recommended that assistance animals are vaccinated and desexed.

What proof is required?

The Council is entitled to request reasonable proof that the animal is a genuine assistance animal.

This means receiving evidence of the following:

- That the Owner of the animal has a disability. Proof can be established with a current letter from their doctor. And;
- That the animal has been trained or is being trained to alleviate the effect of the disability referred to in the doctor letter above. Proof can be established with a current letter from a recognised dog trainer certifying the training. And;
- That the animal is trained to meet standards of hygiene and behaviour appropriate for an animal in a public place. Proof will be established by providing a current document detailing the test undertaken and the results of the test (PAT test) from a recognised dog trainer certifying the dog meets this standard.
- The registration of an assistance animal “in training” will be noted on the Register as “in training”. Proof can be established with a current letter from a recognised dog trainer certifying the training and detailing the training plan that includes a preliminary PAT test undertaken after 6 months of training. The results of the preliminary test must be provided to the council. The animal must be certified as meeting PAT test standards after 12 months of training. Proof must be provided to the council. At that time the “in training” note may be updated to reflect the PAT test results.
- A companion animal that does not pass the PAT test cannot maintain its registration as an Assistance Dog. When this occurs, the animal must be re-registered within 28 days and the registration fees will be required to be paid.

Training your own dog. What proof is required?

A person with a disability has the right to train their own assistance animal so long as he or she can provide proof that that training means the animal meets the definition of an assistance animal.

Evidence of the Public Access test (PAT) described above must also be met.

Records supporting assistance animals registration held by Council

Registration as an assistance animal under the Companion Animals Act 1998 does not necessarily provide proof the animal is an assistance animal for the purposes of entering a public place or public transport. The relevant evidence that supports the registration of an assistance animal must be held by the Council that registered the animal.

Make an application to register an assistance animal

If the owner and the animal can satisfy the necessary requirements to register an assistance animal the applicant must complete the Lifetime Registration application form and attach copies of the necessary evidence described above. The application will be assessed by a Council Ranger and the applicant will be notified of the outcome within 7 days of the application being received by the Council.

Discriminators lawful rights

Council staff applying this procedure will do so in strict compliance of the Councils Code of Conduct. The Disability Discrimination Act section 54A provides for council staff to require a person with a disability to do certain things regarding assistance animals.

Disability Discrimination Act s54A Assistance animals

- (1) This section applies in relation to a person with a disability who has an assistance animal.
- (2) This Part does not render it unlawful for a person to request or to require that the assistance animal remain under the control of:
 - a) the person with the disability; or
 - b) another person on behalf of the person with the disability.
- (3) For the purposes of subsection (2), an assistance animal may be under the control of a person even if it is not under the person's direct physical control.
- (4) This Part does not render it unlawful for a person (the **discriminator**) to discriminate against the person with the disability on the ground of the disability, if:
 - a) the discriminator reasonably suspects that the assistance animal has an infectious disease; and
 - b) the discrimination is reasonably necessary to protect public health or the health of other animals.
- (5) This Part does not render it unlawful for a person to request the person with the disability to produce evidence that:
 - a) the animal is an assistance animal; or
 - b) the animal is trained to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.
- (6) This Part does not render it unlawful for a person (the **discriminator**) to discriminate against the person with the disability on the ground that the person with the disability has the assistance animal, if:
 - a) the discriminator requests or requires the person with the disability to produce evidence referred to in subsection (5); and
 - b) the person with the disability neither:
 - i. produces evidence that the animal is an assistance animal; nor
 - ii. produces evidence that the animal is trained to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.
- (7) This Part does not affect the liability of a person for damage to property caused by an assistance animal.