Procedure 5.06.5 Rate exemption

<table>
<thead>
<tr>
<th>Department</th>
<th>Strategy &amp; Business Services</th>
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<tbody>
<tr>
<td>Responsible Officer</td>
<td>Group Manager</td>
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Introduction

Under Section 554 of Local Government Act 1993 (the Act) all land in an area is rateable unless it is exempt from rating. Council will offer rate exemptions that comply with the Act and the Local Government (General) Regulation 2005.

Rate exemptions may apply under specific circumstances for entities such as schools, religious bodies, public hospitals, public benevolent institutions, and public charities. Crown land and land that is the subject of a conservation agreement are other examples of where rate exemptions may apply.

Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Vested</td>
<td>Land is &quot;vested&quot; in a public body if the body has powers of control and management and such proprietary interest as will enable the body to carry out its public functions. However, there must be actual &quot;possession&quot; of the property.</td>
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<td>Public place</td>
<td>&quot;public place&quot; means:</td>
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<tr>
<td></td>
<td>a. a public reserve, public bathing reserve, public baths or public swimming pool, or</td>
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<td>b. a public road, public bridge, public wharf or public road-ferry, or</td>
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<td></td>
<td>c. a Crown reserve comprising land reserved for future public requirements, or</td>
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<td>d. public land or Crown land that is not:</td>
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<td></td>
<td>i. a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c)), or</td>
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<td>ii. a common, or</td>
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<td>iii. land subject to the Trustees of Schools of Arts Enabling Act 1902, or</td>
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<td></td>
<td>iv. land that has been sold or leased or lawfully contracted to be sold or leased, or</td>
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<td>e. land that is declared by the regulations to be a public place for the purposes of this definition.</td>
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<td>Public land</td>
<td>Means any land (including a public reserve) vested in or under the control of the council, but does not include:</td>
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<td></td>
<td>a. a public road, or</td>
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<td></td>
<td>b. land to which the Crown Lands Act 1989 applies, or</td>
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<tr>
<td></td>
<td>c. a common, or</td>
</tr>
<tr>
<td></td>
<td>d. land subject to the Trustees of Schools of Arts Enabling Act 1902, or</td>
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<tr>
<td></td>
<td>e. a regional park under the National Parks and Wildlife Act 1974.</td>
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<tr>
<td>Non-profit organisation:</td>
<td>A non-profit organisation is an organisation that is not operating for the profit or gain of its individual members, whether these gains would have been direct or indirect. This applies both while the organisation is operating and when it winds up. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its members.</td>
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Overview of rates and charges

As per Council’s revenue policy, the following rates and charges are levied by Council under the relevant sections of the Local Government Act 1993, and for the purposes of this procedure are included in the grouping “all rates”:

- Ordinary rate – base rate (Section 498)
- Ordinary rate – ad valorem (Section 499)
- Water access charge (Section 501)
- Sewer access charge (Section 501)
- Urban stormwater charge (Section 496A)

Additionally the following rates and charges are levied by Council under the relevant sections of the Local Government Act 1993, and for the purposes of this procedure are not included in the grouping “all rates”:

- Domestic base waste management charge (Section 496)
- Domestic waste collection charges (Section 496)
- Commercial base waste management charge (Section 501)
- Commercial waste collection charge (Section 501)
- On-site sewer management annual charge (Section 608 and 107A)
- Water, sewer and liquid trade waste usage charges (Section 502)

Council has not levied any water or sewer supply special rates under Section 495. Water and Sewer access charges are not a special rate for the purposes of this procedure. Sections 557 and 558 of the Local Government Act do not apply.

Land exempt from all rates – Section 555

Under Section 555 of the LGA there are several categories of land that are exempt from all rates. All rates include:

- Ordinary rate – base rate
- Ordinary rate – ad valorem
- Water access charge
- Sewer access charge
- Urban stormwater charge

Exemption under Section 555 does not apply to the following charges:

- Domestic waste management charges
- Commercial waste management charges
- On-site sewer management annual charge
- Water, sewer and liquid trade waste usage charges
Categories of land applicable to the Bega Valley Shire include:

Crown Land

Crown Land that is not being land held under a lease for private purposes, unless the land is leased by the Crown to a caretaker at a nominal rent. This includes land that belongs to and is occupied and used in connection with an emergency service or Government department. Examples are as follows:

- Police Stations, Ambulance Stations, Fire Stations
- Government offices and residences that are not subject to a lease

National Parks

Land within a national park, historic site, nature reserve, state game reserve or karst conservation reserve whether or not the land is affected by a lease, licence, occupancy or use.

Conservations Agreements

Land that is a subject of a conservation agreement. If part of a single parcel of land is subject to a conservation agreement, any rate levied on that whole parcel of land is to be reduced by the percentage of the area of the land subject to the agreement.

Religious Bodies

**Land that belongs to a religious body and is occupied and used in connection with:**

- a church or other building used or occupied for public worship, or
- a building used or occupied solely as the residence of a minister of religion in connection with any such church or building, or
- a building used or occupied for the purpose of religious teaching or training, or
- a building used or occupied solely as the residence of the official head or the assistant official head (or both) of any religious body in the State or in any diocese within the State

A parcel of rateable land belonging to a religious body that is partly occupied and used in a manner described above, and partly in a manner that would result in part of the parcel not being exempt from rates under section 555, will be valued in accordance with section 28A of the Valuation of Land Act 1916 to enable those rates to be levied on the part that is not exempt.

Schools (Government and Non-Government)

Land that belongs to and is occupied and used in connection with a school, school playground or residence occupied by a teacher, employee or caretaker of the school. A school is defined by the Education Reform Act 1990.

Aboriginal Land Councils

Land that is vested in the New South Wales Aboriginal Land Council or a Local Aboriginal Land Council and is declared under Division 5 of Part 2 of the Aboriginal Land Rights Act 1983 to be exempt from payment of rates. Essentially this is land of cultural significance and excludes residential and commercial properties.

Land below a high water mark

Land that is below high water mark and is used for any aquaculture relating to the cultivation of oysters (Detailed in the Fisheries Management Act 1994).

Land exempt from all rates other than water and sewer special rates – Section 556
Under Section 556 for the LGA there are several categories of land that are exempt from all rates except for water and sewer special rates. Council has not levied any water and sewer special rates. Exemption under section 556 applies to water and sewer access charges, as they are included in the grouping, “all rates” (refer to the section above “Overview of rates and charges” for further information). All rates include:

- Ordinary Rate – base rate
- Ordinary Rate – ad valorem
- Water access charge
- Sewer access charge
- Urban stormwater charge

Exemption under Section 556 does not apply to the following charges:

- Domestic Waste Management Charges
- Commercial Waste Management Charges
- On-site sewer management annual charge
- Water, Sewer and Liquid Trade Waste Usage Charges

**Categories of land applicable to the Bega Valley Shire include:**

**Public places**

Land that is a public place - this includes land that belongs to and is occupied and used in connection with a Council provided that the land is not commercially leased. Refer to the definitions section of this procedure for further information.

**Public Reserves and Commons**

Land used for a public reserve or public common and vested in the Crown, a public body or trustees.

**Public Cemeteries**

Land used for a public cemetery and vested in the Crown, a public body or trustees.

**Public Libraries**

Land used solely for a free public library and vested in the Crown, a public body or trustees.

**Public Benevolent Institution/Public Charity (non-profit organisation)**

Land that belongs to a public benevolent institution or public charity and is used or occupied by the institution or charity for the purposes of the institution or charity. As per section 559, the provisions of the Charitable Fundraising Act 1991 are irrelevant in determining whether a body is a public benevolent institution or public charity for the purposes of section 556. Council is not required to extend this to non-profit organisations other than public benevolent institutions or public charities, but has resolved that a non-profit organisation as defined by this procedure (refer to the definitions section of this procedure for further information) is interchangeable with the terms public benevolent institution or public charity for the purposes of section 556.

A parcel of rateable land belonging to an eligible non-profit organisation (as determined below) that is partly used or occupied by the organisation for its own purposes, and partly for a purpose that would result in part of the parcel not being exempt from rates under this section, is to be valued in accordance with section 28A of the Valuation of Land Act 1916 to enable those rates to be levied on the part that is not exempt.
In order for a parcel of land owned by a non-profit organisation to be considered for any exemptions under this procedure, the following criteria must be met:

1. the organisation must be registered with the Australian Taxation Office as a non-profit organisation; and
2. the parcel of land must be owned by, and used for the purpose defined in the organisation’s charter; and
3. the organisation must be solely operated and/or managed by volunteers (the organisation may employ staff but the board of directors/management committee must all be volunteers); and
4. the use of the parcel of land must be open to all members of the public (or all members of the public that fall into specified sections of the community as recognised in the organisation’s charter e.g. people with disabilities).

Additionally, if a non-profit organisation satisfies the above four criteria and the parcel of land is used as an aged care facility, the facility must fall into one of the following categories in order to be eligible for the exemption:

- high-level care (nursing home) - Nursing home is the previous name for aged care homes that provide high-level care, including accommodation services such as meals, laundry and room cleaning, and personal care. Medical needs are managed by nursing staff; or
- low-level care (hostel) - Hostel Care is now known as low-level care, and refers to accommodation services such as meals, laundry and room cleaning, as well as additional help with personal care, and nursing care if required.

The exemption does not extend to self-care units for people that are living independently, as you would in your own home, in a retirement village or aged care complex.

Where the self-care units are part of an ageing in place facility, Council will negotiate the level of exemption with the organisation based on the proportion of residents in the self-care section of the facility.

**Public hospitals**

Land that belongs to a public hospital.

**Area Health Service**

Land that is vested in the Minister for Health, the Health Administration Corporation, the New South Wales Health Foundation, or a local health district constituted under the Health Services Act 1997.

**Universities**

Land that is vested in a university, or a university college, and is used or occupied by the university or college solely for its purposes.

**Teacher Housing Authority**

Land that is managed by the Teacher Housing Authority and on which a house is erected.

**Aboriginal Land Council**

Land that is vested in an Aboriginal Land Council and that is reserved under Part 4A of the National Parks and Wildlife Act 1974. This includes land that is the subject of a claim by one or more Aboriginal Land Councils under section 36, and of the Aboriginal Land Rights Act 1983 and the Crown Lands Minister is satisfied would be claimable Crown lands except for the fact that the lands are needed, or likely to be needed, for the essential public purpose of nature conservation.
Exemptions extended to leased properties

Where an exempt body owns a property which they then lease to another exempt body, Council will consider extending the rating exemptions to that particular property – providing both parties attract exemption status individually.

Exemption from waste management charges

Under Section 496(2) of the LGA, a Council may levy waste management charges on a non-rateable property if:

a. the service is available for that land, and  
b. the owner of that land requests or agrees to the provision of the service to that land.

Properties that have been deemed non-rateable under section 555 or 556 above may be exempt from base waste management charges and domestic or commercial waste collection charges if the owner requests the collection service to cease. However, if a waste collection service is provided the annual base waste management will also be levied.

Exemption from urban stormwater charge

Non-rateable properties are exempt from Council’s urban stormwater charge under section 555 or 556 (as per above). Under Section 496A, rateable properties that are exempt from the Urban Stormwater Charge are:

a. rateable land that is owned by the Crown (Section 555 (1) (a) provides that land owned by the Crown is not rateable land unless it is held under a lease for a private purpose); and  
b. rateable land that is held under a lease for private purposes granted under the Housing Act 2001 or the Aboriginal Housing Act 1998.

Exemption from Onsite Sewer Management annual charge

Land reserved or dedicated under the National Parks and Wildlife Act 1974, with the exception of Karst Conservation Reserves, are not required to obtain approval to operate on-site sewer management systems. Accordingly, all National Parks in Bega Valley Shire are exempt from the on-site sewer management annual charge. However, if the occupier is a lessee, the exemption does not apply.

Exemptions in relation to water, sewer and liquid trade waste usage charges

There are no compulsory exemptions in relation to water, sewer and liquid trade waste usage charges prescribed by the Local Government Act or the Best Practice Management of Water Supply and Sewerage Guidelines. There is no exemption available for residential or farmland properties for unusually high usage due to a leak on the property or similar circumstances. Please refer to Council’s Financial hardship assistance and Debt recovery procedures relief that may be available for in these circumstances.

Additionally, the exemption to public hospitals/public charities under Section 558(4) does not apply, as Council has not levied any water or sewer supply special rates under Section 495. Water and sewer access charges are not a special rate for the purposes of this procedure.

Exceptions

*However, Council has resolved to allow the following two exemptions:*

**Home haemodialysis patients**

As per Council’s adopted Revenue policy, a quarterly allowance of 52.5 kilolitres of water is available to registered patients using home haemodialysis machines (maximum of 210 kilolitres per annum). This allowance is granted by Council under Section 356 of the LGA and complies with section 2.3.2 of the Best-Practice Management of Water
Supply and Sewerage Guidelines. All water consumed in excess of this allowance will be charged at the rate adopted in the current revenue policy. The allowance will be fully extinguished each quarter. Should the actual consumption be less than the allowance, there is no carry-over of the remaining allowance to the next quarter.

To access this allowance, annual certification by a medical practitioner is required and allowances will not be applied retrospectively. Should home treatment cease or the patient pass away, Council must be notified immediately and the allowance will no longer be available. This exemption is only available to ratepayers and not tenants of properties.

Undetectable leaks (Business properties only)

Council may waive sewer and liquid trade waste usage if a ratepayer can demonstrate that there has been an undetectable leak on their property. No adjustment will be made to the water usage component of the account. Please refer to Councils Water Usage Charges Procedure 4.07.04 for residential arrangements.

Guidelines

Guidelines are as follows:

1. Applications are to be made on the appropriate form (available from Council’s website www.begavalley.nsw.gov.au).
2. Applications in writing for adjustment to the sewer and liquid trade waste component of the water and sewer usage account due to an undetectable leak shall be considered where the property is connected to Council’s sewerage system and is a separately metered premise.
3. The leakage must have been significant and undetectable. Significant leakage is determined if the water usage for the period in question is 1.5 times greater than the previous 2 years daily average usage. Undetectable leakage is defined as occurring within pipeline breaks or connections in the ground, under slabs or within walls, and is clearly not visible by the owner. It does not involve leakage from an appliance, fixture, water pump, hot water system and the like.
4. The applicant must be the person liable for the water, sewer and liquid trade waste charges for the property for which the application applies.
5. The property for which the application applies must be land categorised as Business for rating purposes in accordance with section 516 of the LGA.
6. The application must be received by Council within 30 days of the owner becoming aware of the leak or within 30 days of the issue of the water and sewer usage account, whichever comes first.
7. The submission of a copy of the licensed plumber’s invoice of account should accompany the application outlining the cost of the repairs that were necessary, stating the location of the leak and the nature of the repairs.
8. Where the application is approved, the sewer and liquid trade waste usage charges will be adjusted in accordance with an ‘average usage’ calculated on the usage details for the subject property over the previous two years provided that the applicant has owned the property for all of that time.
9. Only one application will be accepted as a result of an undetectable leak at the same property and by the same owner regardless of whether it is a related event or separate undetectable leakage.

Related policies & procedures

5.06.1 Financial Hardship Assistance

5.06.4 Recovery of unpaid rates and charges