

# Pro bono or reduced fee services

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[www.architecture.com.au/about/national-bushfire-response/](http://www.architecture.com.au/about/national-bushfire-response/)

Architects may from time to time offer their services pro bono, whether generally – such as for community groups or communities and individuals in need – or in response to natural disasters such as bushfires. Pro bono services may be defined as professional services offered for free or at a substantially reduced fee to benefit the public good.

Before agreeing to pro bono work, and to provide to those most in need, the following should be considered:

- Does the prospective client have the financial capacity to engage an architect in the usual manner?
- In situations such as natural disasters, will the prospective client's insurance policies provide for full or partial fees for services?
- Has the prospective client exhausted all other avenues of financial assistance?
- Will the provision of architectural services produce a result which would not be achieved otherwise?

## Page contents

- [Taking on pro bono work](#)
- [Pro bono risk-management strategies](#)
- [Organisations and initiatives](#)

## Taking on pro bono work

The Institute's [Code of Conduct](#) expects members to serve and advance the public interest through appropriate involvement in civic activities, as citizens and professionals.

Some architects may provide pro bono services to a range of community groups with which the individual or practice already has contact. Architects may also integrate pro bono work as part of their practice, for instance choosing to carry out one pro bono project per year on a selective basis. Be aware that when providing pro bono or reduced fee services for one person/party, it may set expectations that this is provided for others on the same basis. Consider submitting a fee proposal for the pro bono services at the outset of a project, demonstrating the value of the services you are providing.

While pro bono work can offer significant rewards, the fact that the services are provided without charge or for a substantially reduced fee will not relieve the architect of liability for poor judgment or negligence. Pro bono clients should be treated in the same way as other clients with a formal agreement in place, setting out the services to be provided, before work begins. (See [Pro bono risk-management strategies](#), below.)

As well as helping those who need our professional services, pro bono work can provide great personal satisfaction for the architect and can also increase the profile of the individual or the practice. It allows us to fulfil one of the core tenets of our profession: to work for the public good without prejudice and with selfless dedication. We should not only provide pro bono assistance in response to urgent demand but also to seek out areas where such work would not occur if the services of an architect was not obtained.

There may be instances where pro bono work could breach the code of professional conduct of the state registration board. If in doubt, discuss the issue directly with the relevant board prior to undertaking the work. Refer [Codes of conduct](#).

[Back to top](#)

## **Pro bono risk-management strategies**

Architects offering professional services need to be sure their generosity of spirit does not overwhelm appropriate management of their own risks.

No provision of professional service is risk free, even if provided for free or partially free and with the best of intentions. When someone is faced with financial loss brought about by a professional person's negligence, the law does not exonerate the professional for exemplary motives and/or gratuitous services. Refer [Risks of free design services](#).

In the following we suggest some simple risk-management strategies, tailored to providing partial or gratuitous services:

### **Keep records**

Keep records in the same way as you would for a fully paid project – open a project file and maintain it.

### **Have a written client and architect agreement**

- Even a project for no fee should have a client and architect agreement that sets out the agreement between you and your client over what exactly you are going to do for the payment, if any, or none. Without a defined scope, there can still be disagreements over what you said you would do for a fee of \$0.00. In some states, it is a legal requirement for an architect to enter into a written agreement with the client.
- Be clear on the extent of your services and define components that are at a reduced fee or no fee (pro bono). If you are providing partial services – eg only schematic drawings, only planning drawings, or contract documents that are not detailed to the level usually expected – then set this out clearly in your client and architect agreement and make sure that the client understands what they are getting. Refer [Bushfire or pro bono work – special conditions CAA 2019](#).
- The Australian Institute of Architects 2019 [Client and Architect Agreement \(CAA2019\)](#) and 2019 [Client Architect Agreement for Limited Services \(CAALS2019\)](#) include a checklist of services that can be marked as 'included', 'excluded' or 'additional'. (Special conditions that you can adopt for pro bono commissions when using the CAA2019 have also been developed [here](#))
- Providing pro bono services for contract administration is not recommended. If included in your services, then you will still need to perform observations with proper care and skill. Bear in mind that a contractor who may also be working at a reduced rate may seek to cut corners. Draw defects to the client's attention diligently. The client might be willing to accept the defects, but it must be the client's choice, and this process must be recorded in writing.
- Since some ruined buildings may contain asbestos, remember that professional indemnity insurance policies almost without exception exclude asbestos from cover. If you take on any responsibilities relating to identifying or managing the removal of asbestos, those responsibilities are almost certain to be uninsured. Recommend the engagement of specialist services. Refer [Professional indemnity insurance cover and asbestos](#).
- Be clear on whether you are performing this work in your private capacity or on behalf of a practice. Your professional indemnity insurance might not cover you for work performed in your private capacity, so either perform the work through the practice, or consider obtaining your own separate insurance cover. Planned Cover can advise you on the options for separate cover. Refer also [Employee private commissions and liability](#).
- Know who your client is – a private landowner, or a local council – because your client is the source of your instructions and legal responsibilities. If your client is a committee or group, agree clearly on who will give instructions, and on a communication procedure.

Discuss fees and costs with your client, and record your decision in your client and architect agreement. Examples of matters that need to be recorded in your client and architect agreement:

- Are there disbursements that the client will need to pay? Consider that if you are not being paid for disbursements, you are contributing to the project's funding.
- Is there a limit to the number of revisions you are prepared to make, or a cap on the number of pro bono hours you are prepared to work?

- Do you want to retain the right to withdraw your services at any point, or to start charging a fee?
- Do you want to be paid a retrospective fee if the client should happen to receive a large government grant or insurance payout?

Be realistic about timeframes and warn clients to plan for delays. If re-construction depends on insurance payouts or grants, remember that complex claims might take time to process. At the same time, you might need to remind yourself that some clients will be dealing with very difficult circumstances. At times your clients may be incapable of giving you instructions or consistent briefing that enables a straightforward project.

For pro bono work, especially if your involvement in the project is limited, do not engage the consultant team as your subconsultants. Engaging a subconsultant makes you automatically liable to the client for all of the subconsultant's work. This is a significant risk for you to take on for no fee. Instead, have the client engage them directly as a secondary consultant. You can still co-ordinate their work.

[Back to top](#)

### **Organisations and initiatives**

There are structured not-for-profit organisations which have a mission to engage the Australian design profession in pro bono projects that improve the living conditions of communities in need, including:

- Architects Without Frontiers: [www.architectswithoutfrontiers.com.au](http://www.architectswithoutfrontiers.com.au)
- Engineers Without Borders: [www.ewb.org.au](http://www.ewb.org.au)

[Architects Assist](#), an initiative of the Australian Institute of Architects, connects architects and built environment professionals who wish to offer pro bono services to those affected by the recent Australian bushfire crisis.

[Back to top](#)

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