

# Pro bono work

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Architects may provide pro bono services to a range of groups including community groups such as preschools or the scouts, through membership of churches, sporting or social clubs and out of a spirit of social compassion for communities in need, such as the victims of natural disaster.

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## Taking on pro bono work

The Institute's Code of Conduct expects architects to:

- serve and advance the public interest through appropriate involvement in civic activities, as citizens and professionals
- promote environmental awareness and the appreciation of architecture and urban design
- encourage informed public debate on architectural and urban design issues
- respect, conserve, and enhance, the natural and cultural environment

There is an additional expectation that architects will consider the importance of engagement with the community in times of crisis through the provision of reduced-fee or pro bono work in the design and management of shelters and other buildings following natural or man-made disasters, and assisting charitable and other non-profit institutions, similarly through the provision of reduced-fee or pro bono work.

Some architects may provide pro bono services to a range of community groups with which the individual or firm already has contact. There are also structured not-for-profit organisations which have a mission to engage the Australian design professions in pro bono projects that improve the living conditions of communities in need with a focus on the Asia-Pacific region. Some of these are:

- Emergency Architects, Australia: [LinkedIn page](#)
- Engineers Without Borders: [www.ewb.org.au](http://www.ewb.org.au)

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

Pro bono contribution is often made to organisations such as the Australian Institute of Architects and universities, where guest lecturing, tutoring, honorary dissertations or thesis panel membership, adjunct professorships, and contributions to academic advisory bodies and so on are sought.

Pro bono work offers significant rewards for architects but the fact that the services are provided without charge or for a substantially reduced fee may 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 being in place, setting out the services to be provided, before work begins. (See [Pro bono risk-management strategies](#), below.)

It is also suggested that before agreeing to do pro bono work, and so valuable resources may be efficiently provided 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?

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 firm. 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.

Finally there may be instances where pro bono work could breach the Code of Professional Conduct of the State Registration Board. Where doubt exists, architects should discuss the issue directly with the board prior to undertaking the work.

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

The Institute proudly recognises the community spirit of its members who offer pro bono assistance to victims of natural catastrophes such as bushfires.

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

While the Institute encourages its members to fulfil their offers of pro bono work, we remind members that no provision of professional service is risk free, even if provided for free and with the best of intentions and motives. Like it or not, 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.

In the following we suggest some simple risk management strategies, tailored to providing partial and gratuitous services in these circumstances:

### **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-architect agreement**

- Even a project for no fee should have a client-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. If you are providing partial services – e.g. 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-architect agreement and make sure that the client understands what they are getting.
- The Australian Institute of Architects' [Client and Architect Agreement](#) includes a checklist of services that can be marked as 'included', excluded' or 'additional'.
- In particular, be very clear on whether you are or aren't providing contract administration services. If you are, then perform observations with proper care and skill. Bear in mind that a contractor who may also be working at a cut-price rate may seek to cut corners. Draw defects diligently to the client's attention. 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 reportedly contain asbestos, remember that professional-indemnity insurance policies almost without exception exclude asbestos from cover. If you take on any responsibilities relating to the identifying or managing the removal of asbestos, those responsibilities are almost certain to be uninsured, and you should either decline to perform those responsibilities, or perform the work with exceptional care since it is done without the protection of insurance. Refer Acumen note: [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.
- 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 you instructions, and on a communication procedure.

- Discuss fees and costs with your client, and record your decision in your client-architect agreement. Examples of matters that need to be recorded in your client-architect agreement:
  - Are there disbursements that the client will need to pay?
  - Is there is 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 timetable 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 at times that some clients will be dealing with very difficult circumstances and in coming to terms with this, are even less likely to be model clients. At times they 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.

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#### **Reference Info:**

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