

21 December 2023

Hon Paul Goldsmith
Associate Minister of Justice
Parliament Buildings
Wellington 6160

Tēnā koe Minister,

Briefing to Incoming Minister – Real Estate Authority (REA)

1. The Real Estate Authority (REA) Board and staff warmly congratulate you on your appointment as the Minister of Justice. We understand that responsibility for oversight of the Real Estate Authority, and the Real Estate Agents Act 2008 sits with you subject to any delegations that may be advised. We look forward to working with you and/or your delegate to ensure our effective delivery of our mandate as the conduct regulator of the real estate profession.
2. This briefing letter provides an overview of REA's role, functions, and responsibilities, the key opportunities and challenges faced by the organisation, and a summary of matters that may require your attention in the coming months. I look forward to meeting with you, to discuss the matters raised with you in due course.

Supporting documentation

3. To support our briefing to you we **attach** our *Quarterly Report to the Minister for the period ending 30 September 2023* along with links to our Accountability Reporting at the end of this letter.

Who we are

4. REA is a Crown entity established under the Real Estate Agents Act 2008 (the **Act**). The purpose of the Act is to "promote and protect the interests of consumers in respect of transactions that relate to real estate and to promote public confidence in the performance of real estate agency work." As the conduct regulator of the real estate profession, our regulatory responsibilities include licensing individuals and companies working in the real estate industry (**licensees**), overseeing a code of conduct and associated rules and guidance, dealing with complaints about licensee behaviour, and providing independent information for people who are buying and selling property.
5. We fulfil our statutory responsibilities by:
 - a. supporting real estate licensees to understand and fulfil their obligations under the professional conduct and client care rules;
 - b. overseeing a continuing professional development programme for licensees;
 - c. providing consumers with an accessible and effective complaints process;
 - d. providing consumers with information to help protect them from harm when they are buying or selling property; and
 - e. overseeing other various rules, notices, regulations, and codes made under the Act.

Governance

6. We are governed by an independent Board. The Act provides for a board with no more than seven members with consumer and industry representatives and a lawyer as the Chair. We currently have seven members. The terms of some members come to an end in November 2024, we discuss this further below. We are supported by an able senior leadership team led by Chief Executive/Registrar Belinda Moffat (appointed in September 2020), and a staff of 55. We have one office located on Customhouse Quay in Wellington and offer flexible working arrangements for all our employees to work at the office and/or from their homes. We have three staff working remotely in Auckland, Dunedin and Hawke's Bay.

Funding

7. REA does not receive Crown funding. We are primarily funded by levies and fees from real estate licensees which are set by us to fund REA operations and the operations of the real Estate Agents Disciplinary Tribunal. Fines ordered by a Complaint Assessment Committee (**CAC**) are also paid to us. We earn other revenue from the sale of guides, and interest earned on deposits.
8. With levies being our key source of funding, the correlating number of licensees, is a focus for us and relevant to our ongoing financial sustainability. In the current environment we expect to see fluctuations in licensee numbers, with a projected reduction in licensee numbers in the coming years, after an all-time high number of licensees in 2021-2022. These fluctuations directly impact our revenue and are carefully monitored by us.

Financial Position

9. Over recent years we have had a healthy level of cash holdings (reserves), reflecting both a lift in license numbers (and levies paid) across 2020-2022 and our careful approach to expenditure. We manage our balance sheet with a view to ensuring we have cash holdings of six months of operating expenditure, plus capital expenditure. We have been able to draw on these cash holdings to support the delivery of our functions over recent years.
10. Over the last two financial years we have delivered a small surplus reflecting our focus on prudent expenditure in uncertain operating conditions. We have forecast a deficit for the 2023/24 financial year recognising the need for further investment in our ICT environment, and assuming a reduction in licensee levy revenue. Allocation of budget for additional resource has been directed at our front line as part of our project to improve the timeliness of the complaint system. Our recent 2023/24 reforecast anticipates a reduced deficit.
11. While our current financial situation is stable with healthy cash holdings, we are aware of the need for fiscal restraint in the current environment, both in relation to the general economic conditions and due to our projected reduction in licensee volumes. We have exercised caution throughout the recent financial years reflecting the uncertain economic and property environment. While this restraint has ensured a strong financial position to weather fluctuations in licensee numbers and levy revenue, restraint on pay has impacted our ability to retain and attract staff. We addressed this in part with a modest pay adjustment for staff, taking account of the Pay Guidance issued by the Public Service Commission.
12. As noted above, we are seeing a gradual decline in license numbers (see further below), as the market cools and some people choose to exit the sector, and fewer people choose to join. In light of this we are carefully monitoring our balance sheet, with a view to making

adjustments to our expenditure as required. Our financial position as at 30 October 2023 is provided in **Appendix 1** to this briefing.

Strategy

13. We are in year three of our four-year strategy launched in 2021 which is outlined in our **2021-2025 Statement of Intent**. This strategy is focused on ensuring we are an effective conduct regulator and consumer protection agency, supporting the sector to meet regulatory obligations and high standards, and avoid consumer harm, while also holding those who do not to account through an effective complaints and discipline regime. This is balanced with an equal focus on engaging with and understanding the needs of New Zealand's diverse communities who seek to engage in real estate transactions. Our consumer website *settled.govt.nz* and consumer guides translated in seven languages are core to this work. We also operate within our Māori Engagement Framework which guides our commitment to Te Tiriti o Waitangi and aims to build both our internal cultural capability and that of the sector.
14. Through this strategy we are focused on increasing REA and the sector's knowledge and understanding of the needs and interests of all people who engage in real estate transactions, so that we can support all communities in the real estate context. We have a regulatory stewardship role to play across the property sector and engaging with other agencies to ensure a joined up approach to real estate issues in New Zealand is a priority.
15. Our attached *Quarterly Report* addresses our recent achievements Q1, progress against our 2023/24 SPE and our current licensing, complaints and tribunal volumes. A report with our Q2 results will be provided at the end of January 2024. Below we provide an overview of the current market conditions and our operations, and identify areas of particular focus, and where your input is sought.

Market Conditions

16. After the hot market of 2020-early 2022, there was a substantial shift in the real estate sector. The last 12 months has seen a cooling and complex market driven by softening house prices, lower stock, increased time to sale, increased interest rates and inflation. Buyers previously motivated by a fear of missing out have been replaced by buyers with a fear of overpaying. This buyers' market places pressure on consumers and licensees. Real estate professionals across all sectors are required to demonstrate considerable skill to achieve transactions that meet both buyer and vendor expectations. Knowledge and experience are critical, particularly as vendors explore different methods of sale, and buyers seek out deals.
17. In this environment we have maintained a strong regulatory focus on conduct compliance with disclosure, misrepresentations, and fairness obligations. We are encouraging buyers to carefully complete due diligence, to mitigate any risk that vendors have not disclosed all relevant information. Our licensee continuing professional education programme and sector communication is focused on the wide range of legal and regulatory compliance expected of the sector, along with maintaining a high focus on fundamental code of conduct issues. We are ensuring that any complaints indicating serious harm are expedited through the complaints system. We are carefully managing license applications against the fit and proper guidance issued last year.
18. With COVID-19 restrictions relaxed property transactions are able to proceed in the usual way, but we continue to emphasise the importance of maintaining health and safety

protocols in transaction processes. The disappearance of a real estate licensee in Christchurch, has also heightened awareness and sensitivity about personal safety risks, and is also an area of focus for REA and the sector.

Operations overview

19. The attached Quarterly Report details our progress in Q1 of this financial year. After our highest ever licensee numbers in 2022, licensee numbers have begun to decline with a year on year 5.9% reduction of active licences as at 30 September 2023. We have seen a reduction in new licence applications over the last 12 months. We expect the number of licensees to reduce as forecast to approximately 15,000 by 30 June 2024 and we have based our 2023/24 budget on 15,000 licences. Currently, we continue to be in a healthy financial position, and will continue to seek cost savings where appropriate and to exercise prudent expenditure. If our revenue reduces beyond our forecast, we will adjust our variable expenditure cost lines.
20. In 2022/23 our complaint numbers fell to 252 (2022 total 271). While this is an indicator that conduct in the sector is improving, the nature of complaints brought to us is increasingly serious and complex. The reduction in numbers may also be a reflection of the slower market with fewer transactions. We have noticed an increase in unlicensed trading allegations, which are being considered as a priority.
21. Over the past year we have had a strong focus on reducing the backlog of complaints that built up during the COVID years, and progressing our complaints improvement project (CIP), with changes implemented this financial year. With CIP business requirements identified we have been able to commence another critical project to strengthen our aging IT systems. We will ensure any improvements are fit for purpose for our proposed extended mandate for regulation of property managers.
22. Over the last 24 months we faced the challenges of a tight labour market, with attrition for the 2022/23 year sitting at 29.6% (consistent with previous years). Attrition this year has eased, and we have a strong focus on our attraction and retention programme.
23. Although recruitment is challenging, we are attracting good talent. Our 2022 staff engagement survey reported strong results, with engagement at 73% above the public sector baseline. Our recent pulse survey reported engagement at 74% despite a period of challenge and change. Our gender pay gap currently sits at 13.1% and will be published in our Kia Toipoto report in December 2023. We are carefully monitoring our ethnic and gender pay gaps. We have, and champion, a diverse and inclusive workforce.
24. As a small agency there are pressures to achieve the various compliance requirements for Crown entities within the smaller scale of our resources. We have appointed plain English officers under the new Plain English Language Act and completed and published the results of our Carbon Emissions audit. We are progressing our work to meet the e-invoicing requirements.
25. Over the last 12 months we are pleased with our progress on the following strategic initiatives:
 - a. Publishing guidance on how we assess the fit and proper licensing requirement to provide certainty to applicants and confidence to the public that there are clear standards to be met to be a licensed real estate professional.

- b. Implementing the qualifications review and new licensing regulation to enable the Registrar to accept stale qualifications in appropriate cases. Our recent licensing data reports an increase in branch manager licenses reflecting good uptake of the refreshed branch manager qualification, which is critical to support the supervisor requirements under the Act.
 - c. Implementing our refreshed complaints process, designed to support a more efficient and timely complaint framework.
 - d. Refreshing and publishing our translated consumer guides as part of our programme to ensure our services are available to New Zealand's diverse communities and engaging our distribution programme to reach community hubs.
 - e. Increasing public and consumer awareness of REA through our media and other communication channels. Our progress is reflected in our 2023 consumer perception survey results reported in our 2023 Annual Report.
 - f. Supporting the sector through the issue of regulatory guidance on supervision and the requirements for exceptional circumstances to support licensees understand the requirements for CPD exemption and deferral applications.
 - g. Appointing 10 new CAC members to the CAC panel
 - h. Hosting *Conversation with REA* events in Porirua and Hawke's Bay for licensees to meet with the REA Chief Executive, Board members and senior staff.
 - i. Initiating the refresh of our Industry Advisory Group programme enabling engagement between REA and representatives from across all 4 real estate sectors: residential, rural, business broking, and commercial and industrial.
 - j. Development of the Diversity and Inclusion CPD series, in response to feedback from the sector and our own complaints and enquiries data.
 - k. Supporting HUD with advice on the proposed regulation of property managers.
 - l. Completing our Carbon Emission Audit and developing our reduction plan.
 - m. Our 2023 Annual Report and maintaining the three 'very good' external audit grades.
26. Our key challenges relate to the maintaining a well-resourced team with heavy workloads, completing and implementing the complaints improvement project and ancillary IT system enhancements and preparing for the regulation of property managers.

Areas of focus, opportunity and challenge

Supporting diverse communities

27. We have undertaken a number of initiatives in line with our strategic priority to support informed consumers across New Zealand's diverse communities engage in real estate transactions without harm. In August 2022, we launched our refreshed consumer guides, and this year we completed research into barriers faced by diverse communities in real estate transactions. Our licensee research informed us, that awareness of the needs and interests of our diverse communities across the sector, is low, and our barriers research identified challenges encountered by certain groups in their engagement with the sector.
28. To support increased understanding across the sector of the needs and interests of New Zealand's diverse communities who engage in real estate transactions, this year we

commenced a three year diversity and inclusion series in our continuing professional development (CPD) education programme. The series was designed following consideration of data from enquiries and complaints raised with REA, consideration of our research and survey data, and engagement with our CPD advisory groups and real estate leaders on where our education focus should be.

29. The first topic in the series was included in the 2023 CPD requirements and seeks to raise awareness and understanding of the needs and interests of Māori in the real estate context from a te reo, tikanga and Te Tiriti perspective. The programme provides insight into relevant real estate legislation and consumer issues arising in a te Ao Maori context. We partnered with Te Whare Wānanga o Awanuiārangi to design and deliver this CPD topic, called Te Kakāno (*The Seed*).
30. Our Board determined that the topic should be mandatory, along with the Code of Conduct topic, to ensure consistency of understanding and learning on this new and important topic. It is normal practice for REA to prescribe some topics as mandatory, particularly where the topic is new, and baseline understanding across the sector is sought. While we have had some pushback on the relevance of the topic and our decision to make this a mandatory topic, many who have completed the module have provided positive feedback on the content and learning opportunity. As at the date of this letter nearly 11,000 individual licensees (out of a total of just over 14,800) have completed their CPD requirements, including Te Kakāno. Licensees have until 31 December to complete their 2023 CPD requirements.

Regulation of Residential Property Managers

31. The Residential Property Managers Bill currently before the Social and Communities Select Committee identifies REA as the proposed regulator of residential property managers. We are preparing for the proposed extension of our mandate to regulate residential property managers. We have provided advice, when required, on the development of the regulatory framework to the Ministry of Housing and Urban Development (**HUD**) from our position as an experienced conduct regulator. We remain ready and willing to prepare to fulfil the mandate in the form determined by Parliament.
32. We are currently awaiting guidance from HUD on whether the Bill will be progressed. We have paused our preparatory work pending this confirmation. If we are to be ready in time it will be important for us to have sufficient time and funding to recruit the resources required, to develop the systems and processes, and to ensure effective engagement with the new sector to support their onboarding to the new regime. We would appreciate any guidance you are able to provide as to the priority to be given to this work.

Recommended improvements to the Real Estate Agents Act - License expiry and CPD compliance consequences

33. REA has been operating for 12 years and through this time we have identified a number of areas for improvement in the Real Estate Agents Act, which we consider would improve our effectiveness and efficiency. Our recommendations are summarised in **Appendix 2** to this letter. We have shared these recommendations with the Ministry of Justice for their consideration. We have also shared these with the Ministry of Housing and Urban Development as part of our work to support the development of the residential property manager regime. Of particular concern, is the restrictive and harsh rules relating to expiry for late renewal of a licence and the 5 year cancellation term for non-compliance with CPD

requirements. Pleasingly, the Ministry of Justice has indicated that most of our recommendations have been considered for inclusion in the pending Justice System Stewardship Amendment Bill. We strongly support this bill progressing so that improvements to the regulatory framework can be made.

34. Two of the key changes we have recommended are outlined below:
- a. Under the Real Estate Agents Act, if a license holder fails to apply to renew a license before it expires, the Registrar must record the license as expired in the register. The Registrar has no discretion to accept a late application, even if the delay was inadvertent, 1 day late or due to an administrative oversight. This can have consequential impacts on consumers with listings with that licensee, and in the case of an agent, on salespeople who are listing under the agent license. The strict application of the Act limits our ability to take into account exceptional circumstances that can prevent a person from renewing on time, such as illness, a family bereavement or other unexpected event.
 - b. In addition, the Act does not confer any discretion on REA to allow a person to complete CPD requirements after 31 December each year if they have not obtained a prior exemption or deferral. An exemption or deferral can only be granted in exceptional circumstances. The Tribunal has stated that the threshold for an exemption is high, and the cancellation requirements in the Act are clear. The consequence of failing to complete CPD requirements on time is the cancellation of the license for 5 years. We consider that this is a disproportionate and harsh consequence particularly in cases where the failure was inadvertent only days or weeks late, or other good, albeit not exceptional circumstances apply. The consequences are particularly harsh for those licensees who may have completed 80% of the requirements or have otherwise had an exemplary and compliant career. We note also that the cancellation of the license has a financial impact on REA.
35. To reduce the impact of these provisions, throughout the year we have emphasised the importance of timely renewals and completion of CPD requirements through our various communication and engagement channels with the sector. Notwithstanding this, in our CPD audit in 2023, over 200 licences were cancelled for non-compliance with CPD requirements, with those people not able to return to the sector for 5 years. We anticipate that this volume was influenced in part, by some licensees choosing to exit the sector. We granted some deferrals for completion of 2022 CPD to enable late completion by those who met the exceptional circumstances requirement for the deferral process.
36. Our recommendations also include consideration of removal of the requirement for the Chair to be a lawyer, enhanced information gathering powers, and other changes to confer discretion on REA to enhance regulatory efficiency.

Reducing licensee numbers / Cancellation

37. Given the challenging market environment, we expect licensee numbers to continue a downward trend. As a consequence, some current licensees may choose not to complete their CPD or to renew their license at their annual review date. Given that we are required to cancel the license of anyone who does not complete CPD, we have encouraged licensees to complete their CPD and then either surrender or suspend their license. This will then enable them to return to the sector, in the future if they wish without a 5 year standdown

that would apply if we have to cancel their license for non-completion of CPD. We are monitoring licensee numbers to ensure that we continue to operate within budget.

Complaints system

38. The timelines on our complaints have been challenged over recent years as we have faced human resourcing challenges, increase in volumes and complexity in cases. Our complaints improvement project is directed to addressing inefficiencies in the system to ensure that the time is improved and the quality us sustained. We implemented the refreshed process in October this year and aim to complete the project in March 2024.

Sector engagement

39. Engagement with the sector and raising awareness of the role we play as the conduct regulatory, is a strategic priority for us. We achieve this though a range of communication and engagement channels. With the development of new property technology business models and sales techniques it is essential that our understanding of the sector is current. The new operating models challenge the traditional in person supervision model, which is a critical part of the regulatory framework. Equally, the weather events and challenging environment place pressure on conduct. Our engagement with the sector enables us to be responsive to the conditions licensees and consumers operate within.

40. We have regular engagement with the sector and invite you to attend one of our next sector stakeholder events *Conversations with REA* in the South Island in May or Auckland later in the year. We also hold three meetings with senior leaders in the sector three times a year and invite you to attend one of these meetings.

Board Governance and Succession Planning.

41. Our Board consists of experts in fields including law, real estate, risk management, consumer interests, and finance (brief biographies of the current Board members are in **Appendix 3**). We have good diversity across our current membership in terms of experience, age, ethnicity and gender. The Board may have up to seven members, of which two must be either licensees or former licensees and the Chair must be a lawyer. With the pending extension of our mandate to regulate residential property managers it is important that we have a sound succession plan in place. The terms of four board members are due to end in late 2024. This is an area we would like to discuss with so that we can ensure we have good stability in our Board.

Matters requiring your attention

Strategic matter	Action required	Date required
REA Statement of Intent 2024-2028 & Statement of Performance Expectations 2024/25	Review and provide comments on Draft SPE	May 2024
Decision on Board term extensions/appointments and succession planning for	Discussion with Board Chair and MoJ Appointments team	By November 2024

Strategic matter	Action required	Date required
the Chair (who must be a lawyer)		
Support for recommended amendments to Real Estate Agency Act 2008	Support amendments in Justice System Stewardship Amendment Bill	Early 2024
Regulation of Residential Property Managers	Note progress and provide feedback on support for the progress of this Bill, reporting expectations and funding	Early 2024
Attendance at REA licensee stakeholder event <i>Conversations with REA</i>	Consideration of attendance	April and October

42. This letter focuses on the primary issues arising from REA, and I welcome the opportunity to meet with you to discuss in more detail.

43. In the meantime, I look forward to working with you to continue our work promoting public confidence in the real estate sector and protecting the interests of New Zealand consumers when they are buying or selling property.

Nāku iti noa, nā,



Denese Bates, QC
Chair, REA Board

CC Belinda Moffat, Chief Executive - REA
 Liam Knight, Manager, Crown Entity Monitoring – Ministry of Justice

Attachments (linked unless stated)

1. [Statement of Intent 2021 to 2025](#)
2. [Statement of Performance Expectation for the year ending 30 June 2024](#)
3. [Annual Report for the year ending 30 June 2023](#)
4. [Te Kāhano](#) – CPD Topic
5. Quarterly Report to Minister for period ending 30 September 2023 (PDF attached)

Appendix 1

Statement of Comprehensive Revenue and Expense

for the four months ended 31 October 2023

	October YTD Actual \$000	October YTD Budget \$000	YTD Variance \$000	Budget to 30 June 2024 \$000
Revenue				
Operating levy received	2,871	2,339	532	8,955
Application and Suspension fees	284	254	30	799
Other revenue	214	85	129	242
Total revenue	3,369	2,678	691	9,996
Expenditure				
Audit fee	-	-	-	60
Personnel costs	2,156	2,513	357	7,411
Depreciation and Amortisation	24	23	(1)	64
Specialist services	381	610	229	1,413
Legal fees	244	131	(113)	398
Board fees	44	53	9	160
Complaints Assessment Committee Fees	84	90	6	270
Miscellaneous expenses	6	7	1	22
Computer and telecommunications	448	415	(33)	1,276
Printing, stationery and postage	8	11	3	34
Travel, meetings and entertainment	47	58	11	177
Occupancy	165	162	(3)	491
Total expenditure	3,607	4,073	466	11,776
Total Comprehensive revenue and expense	(238)	(1,395)	1,157	(1,780)

Commentary on significant variances:

Revenue: Overall licensee revenue is tracking above budget with the new applications being \$21k down, renewals up by \$189.2k as are suspensions by \$32.1k. Other revenue is above budget as interest rates and bank deposit revenue is better than budget by \$129k.

Expenditure: Overall expenditure is down on budget for the period by \$537k.

- **Legal Fees** are up \$113k on budget due to the timing, volume and increased complexity of cases. This is being closely monitored by management.
- **Computer & Telecommunication costs** are \$33k above Budget with a high level of IT support requests in the last four months.

Statement of Financial Position

as at 31 October 2023

	Actual \$000	Budget to 30 June 2024 \$000
Current Assets		
Cash and cash equivalents	4,417	3,158
Investments - short term deposits	6,359	6,117
Debtors and other receivables	46	13
Prepayments	116	202
GST receivable	(152)	(39)
Approved guide stock	14	9
Total current assets	10,800	9,460
Non-Current Assets		
Property, plant and equipment	96	81
Intangible assets	-	-
Total non-current assets	96	81
Total assets	10,896	9,541
Current Liabilities		
Trade creditors and accruals	663	1,423
Employee entitlements	284	290
Doubtful debts	-	55
Residential Property Management - Funding from HUD	187	-
Total current liabilities	1,134	1,768
Total Liabilities	1,134	1,768
Net assets	9,762	7,773
Public Equity		
Retained earnings	9,750	9,303
Litigation reserve	250	250
Current year surplus/(deficit)	(238)	(1,780)
Total public equity	9,762	7,773

Appendix 1

REAA Recommendation of high priority amendments to REAA – for consideration (prepared in May 2023)

The recommendations below reflect proposed changes to the REAA to solve issues and problems that have arisen in the operation of the Real Estate Regulatory framework that we consider may detract from the regulatory effectiveness of the regime.

	Problem to resolve	Current provision in Act, Regulation, Notice or Rules	Possible alternative
1.	<p>Registrar currently must cancel licences of those who fail to do CPD or pay suspension fee on time. Once cancelled they are then unable re-join the profession for 5 years. Cancellation may follow where the non-compliance was result of one-off administrative oversight (notices went to an old email address, date misread), or non-compliance was just 1-3 days late.</p> <p>There may be good reason, albeit not exceptional circumstances, which justify the failure to complete CPD.</p>	<p>Section 54 of REAA</p> <p>The Tribunal has previously observed in decisions and recent annual reports that the REAA requirement of a 5 year cancellation for non-compliance with CPD is harsh, particularly where the oversight was inadvertent or excusable.</p> <p>Links to these reports are here:</p> <p>https://www.justice.govt.nz/assets/READT-annual-report-2021.pdf - page 4</p> <p>https://www.justice.govt.nz/assets/READT-annual-report-2022.pdf - see page 7</p>	<p>Remove cancellation as only consequence of Non-completion of CPD and non-payment of annual suspension fee.</p> <p>Propose in place of cancellation a list of options for decision-making for Registrar:</p> <ul style="list-style-type: none"> • No cancellation cooldown period (i.e. no 5-year prohibition). • Applicant gets notified with 10 days to object (per current approach in REAA). • Licence subsequently gets suspended (if no reason – exceptional circumstances for non-compliance) with condition that licensee completes the CPD within prescribed time. • If licence remains suspended for 12 months and no steps taken to revive and/or if CPD not completed, it becomes expired. <p>The person could then subsequently reapply and would need to meet licensing criteria.</p>

	Problem to resolve	Current provision in Act, Regulation, Notice or Rules	Possible alternative
2.	Currently REA is unable to suspend or cancel a license or to impose conditions in response to a change in circumstance affecting a person's entitlement to be licenced.	Section 36/37 of REAA Section 54	New power for Registrar to cancel or suspend a licence where licensee's circumstances change and could affect entitlement to hold a licence. This could be added as a discretionary "may cancel or suspend" power to s54 or add as a "must cancel or suspend" power to s36 or s37 in the event that the requirements to hold a license are "in the view of the registrar" no longer met.
3.	REA is unable to gather information required to fulfil s12(j) function.	Section 85 of REAA/ new provision	New power for Authority/Registrar to require production of information or records without qualification.
4.	Current wording of provision creates problems with resolving complaints under ER / Registrar Triage scheme.	S 74(3)(a) of REAA	Change the language of 'inconsequential' to reflect the plain meaning of the provision. Suggest "complaint does not require a disciplinary response" or "complaint doesn't require regulatory intervention" Provide express ability to issue formal warnings.
5.	Tribunal decision has resulted in outcome that was not the intention of the sections inclusion in the REAA	S 74(3)(a) of REAA (also refer to s 112)	Clarify scope of review right of Registrar decision and/or expressly exclude right of review of decisions made under section 74(3) as intended by amendments in 2018.
6.	Licensees who miss their renewal dates due to administrative error or exceptional circumstances are forced to reapply for a	Section 53 of REAA	New power to recognise minor administration issues and grant what is technically a short deferment (i.e., someone applies a day or two late due to mistaking the date of renewal) should apply and be reflected in primary legislation.

	Problem to resolve	Current provision in Act, Regulation, Notice or Rules	Possible alternative
	new licence. For some they must requalify if their qual is no longer in the prescribed list and not covered by the new stale qual exemption power. Regulator has no discretion to consider circumstances		<p>Power to grant longer deferrals where there are exceptional circumstances</p> <p>Suggest that the discretion is linked to s36, where there are fitness issues or CPD non-compliance.</p>
7.	Unable to address conduct as unsatisfactory conduct for issues not related to real estate agency work. This means lower-level conduct issues which still cause concern, but which are outside of real estate agency work cannot be addressed at this level. Example of matters that are concerning but do not reach misconduct threshold include: drugs, bullying, digital communications	Section 72 of REAA	New subparagraph that includes failure to comply with all related Regulations. Expressly allow for findings of Unsatisfactory Conduct where complaint relates to non-real estate agency work.
8.	Recruitment issues for Board	Section 13(13) of REAA	Remove the requirement that the Authority Board has a Chair that is a lawyer but still retain the need for board membership to include a person with legal

	Problem to resolve	Current provision in Act, Regulation, Notice or Rules	Possible alternative
			experience of no less than 7 years.
9.	Align legal name with Brand name,	Section 10	Change name from Real Estate Agents Authority to Real Estate Authority

Table 2: other proposed amendments

	Problem	Current provision in Act, Regulation, Notice or Rules	Possible Alternative
1.	Despite harm they cause to consumers, property developers and employees sit outside regime, and are not subject to conduct requirements	Section 4, Real Estate Agents Act 2008 (REAA)	Broaden scope of real estate agency work definition. Potential to clarify the definition of “in trade”
2.	Act silent on when agency agreement must be signed. Recent Court of Appeal decision recognises that this must be signed agency work is commenced.	S 126(1)(c) of REAA	For avoidance of doubt that an agency agreement must be written and signed before real estate agency work is carried.
3.	Change in forms currently require regulations which inhibits REA ability to be agile and amend issues for clarity as they are raised.	Section 156 of REAA	Remove prescription of forms from section 156 so that REA is authorised to prescribe all forms that will give effect to all aspects of the regulatory regime.
4.	Regulator has limited authority to consider if temporary licence	Sections 61 and 62 of REAA	Provide a mechanism enabling a company licensee to apply to the Registrar for appointment of an agent to act

	Problem	Current provision in Act, Regulation, Notice or Rules	Possible Alternative
	holders are fit and proper. Also REA requires ability to appoint another licensee to replace lost agent, to prevent unintended consequences of listings having to be paused or salespeople being unsupervised if the agent loses licence		as the agent licensee where the company's only agent has had their licence cancelled. Provide power for regulator to make fit and proper assessment on s 62 temporary appointees
5.	Current primary leg missing express discretionary power to grant individual exemption	S 156 and s20 / REAA (Licensing) Regs 2009. Regulation 12	Confer on REA discretion to recognise the 1976 quals, where there is evidence of real estate experience and knowledge. This exemption power is not contemplated by s 156 of primary leg Confer on REA ability to grant exemptions for individuals as well as classes of people (see s20 and s156)
6.	Unable to waive or refund fees at an individual level	REAA Fees and Levies) Notice 2016 This requires s20 and s156(1)(a) to be amended to enable us to grant exemptions, deferrals impose conditions at an individual level (not just class level)	Give REA option to waive licence application fee under fees and levies notice (e.g. Suspending for parental leave could be free, exceptional circumstances eg for medical reasons, waiving fee where we require someone to reapply when they are 1 day late in renewal).

Appendix 3 – REA Board Profiles

Denese Bates, KC (Chairperson)

Denese's three-year term as Chair of the Real Estate Authority began in February 2019. Before that she had been a member of the board since 2014. She is a King's Counsel who has had a wide-ranging civil practice. She has also had governance roles in a diverse number of private and professional organisations. She is the outgoing chair of the Melanesian Trust Board and a director of a number of private companies.

Denese has had previous experience with regulatory and disciplinary regimes including as a member of the Commerce Commission and as a member of the Council of New Zealand Law Society. She has also been chair of the New Zealand Law Society Ethics Committee. She was a member of the Insurance & Savings Ombudsman Commission which runs a compulsory disputes resolution scheme for insurance companies and financial advisors.

Liz Nidd

Elizabeth (Liz) is a licensee and people manager of Nidd Realty Limited, an independent real estate company which has been operating in Dunedin for 25 years. She has 36 years' experience in the real estate industry. Liz was president of the Otago Branch of the Real Estate Institute of New Zealand (REINZ) for six years and a regional director on the board of REINZ for six years. Liz was appointed as a Board member of REA in 2015. Her current term ends in November 2024. She is also a Fellow and Life Member of REINZ and holds a Bachelor of Applied Management Degree.

Tony Stack

Anthony (Tony) has been involved in sales and people management for the past 36 years, including 16 years' experience in the real estate industry in Tauranga and Rotorua, along with national and regional roles in the grocery sector having worked for two large food manufacturers. Tony is the Sales Manager for a retirement village operator with villages throughout the Bay of Plenty region. Tony has broad management and governance experience, is involved in Rotary, and has other community interests in Tauranga. Tony was appointed to the REA Board in 2015, his current term ends in November 2024

Latham Lockwood

Latham is a highly experienced real estate professional with over a decade of experience in the industry. He began his career as a salesperson and has since progressed to become the Training and Development Facilitator for Property Brokers, where he supports all areas of the real estate sector. In addition to his work in real estate, Latham is also deeply involved in governance and community service. He has served on a variety of boards and trusts in local government, non-profits, and community organisations, including chairing the Kind Hearts Trust and co-founding the Manawātū Young Professionals network. He is also a certified TetraMap Facilitator, using this method to enhance team dynamics by valuing diversity and reducing conflict. Latham was appointed to the REA board in 2019. His current term ends in November 2025.

Vern Walsh JP

Vern has a financial services and governance background. He operates a mortgage broking consultancy and is a registered financial adviser. He had an 18-year career with Westpac Banking Corporation.

For over a decade Vern has jointly operated a governance consultancy and training business, Meeting and Governance Solutions Limited. This company works primarily in the local government, sports, and not for profit sectors.

Vern was previously an elected Councillor for Auckland City Council (1998 - 2007) and a licensing trust member (2001 - 2007) and is a former director of the Auckland Regional Amenities Funding Board, a board he chaired for 10 years before standing down in 2019. Vern has also held governance roles in council-controlled organisations and was a member of the Lottery Environment and Heritage Committee (2002 - 2008). He is a member of the Remuneration Authority.

Vern is a Justice of the Peace. Vern was appointed to the Board of REA in 2019 and in December 2021 he was appointed Chair of the REA Audit and Risk Committee. His current term ends in November 2025.

Mele Wendt

Mele (Samoan, palagi) has over 25 years of governance experience and is a respected leader in the education and not-for-profit sectors. She currently chairs Wellington Community Fund, and is a board member of Te Kura Correspondence School, Tokelau International Trust Fund, and Tāwhiri: Festivals and Experiences. In 2019, Mele became a Member of the New Zealand Order of Merit (MNZM) for services to governance, the Pacific community, and women. In 2022, she won the Not-For-Profit Governance Leader Award at the Women in Governance Awards. Mele was appointed to the REA Board in September 2021. Her terms ends in September 2024.

Brooke Loader

Brooke Loader (Ngāpuhi) graduated with a Bachelor of Laws and Bachelor of Arts majoring in Music in 2010 from the University of Auckland. She began practising law in 2011 and her experience has included Māori land law, environmental law and resource management law, Treaty Law, Criminal law and Family law. She has been the principal in her own law firm Loader Law since 2018 practicing in litigation, consumer law, public law, RMA, local government, Waitangi Tribunal and Māori legal issues. She is currently an elected member and Deputy Chairperson of the Henderson-Massey Local Board of the Auckland Council and Junior President of the Waitakere Licensing Trust. Brooke was appointed to the REA Board in December 2022. Her term ends in December 2025.