



## Education Report: Access to ESOL provision and update on Pre-purchased English Language Tuition

<b>To:</b>	Hon Chris Hipkins, Minister of Education		
<b>Cc:</b>	Hon Jan Tinetti, Associate Minister of Education		
<b>Date:</b>	26 November 2021	<b>Priority:</b>	High
<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1271636
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<b>Messaging seen by Communications team:</b>	No	<b>Round Robin:</b>	No

### Purpose of Report

This paper seeks your agreement to extend access to government-funded English for Speakers of Other Languages (ESOL) courses to partners of New Zealand citizens or residents who are on temporary visas prior to transitioning to a resident visa. While there is tertiary education funding pressure over 2022, this change will be met within baselines.

This is the second change proposed to domestic tertiary student status from 2022, in addition to a category related to the 2021 Resident Visa [METIS 1275042 refers]. When decisions are made on this proposal, we will publish the Gazette Notice, with the additional 2021 Resident Visa category you have agreed to, and reflect your decision on this second proposal. This Gazette Notice would come into effect on 1 January 2022.

The briefing also outlines options for the Pre-Purchased English Language Tuition funding and some network issues for ESOL provision.

### Recommended Actions

The Ministry of Education recommends you:

- a. **agree** to extend domestic tertiary student status for study through the Intensive Literacy and Numeracy English for Speakers of other Language Fund and Adult Community Education Fund, to Partners of New Zealand citizens or residents on specific visas:
  - i. Partner of a New Zealander Work Visa
  - ii. Partner of a New Zealander Visitor Visa

**Agree** / Disagree

- b. **note** that the small impact of this change, which will be mostly over 2022–2024, will be met within existing tertiary education baselines
- c. **note** that after you have made decisions on the proposal in recommendation (a) an updated Domestic Tertiary Student Gazette Notice will be published by the Ministry of Education
- d. **note** that the Ministers of Education, Immigration and Finance will receive advice from the Ministry of Business, Innovation and Employment on the hypothecated expired (unutilised) PELT fees in the first quarter of 2022, for final decisions on funding reallocated for 2021/22
- e. **note** that the administration of PELT is complex, and arrangements could be changed in future to more effectively and efficiently support those with low levels of English to participate in life in New Zealand (including through translation and interpreting services or English language courses)
- f. **forward** this briefing to the Minister of Immigration for their information

☒ Agree / ☐ Disagree

- g. **agree** that the Ministry of Education release this briefing once decisions have been made and communicated to the sector.

☒ Agree / ☐ Disagree



Kieran Forde  
**Senior Policy Manager, Tertiary Education Policy**  
**Te Puna Kaupapahere**

26/11/2021



Hon Chris Hipkins  
**Minister of Education**

7 /12/ 2021

## Background

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### ESOL access

- 1 Access to government-funded tertiary education is mainly limited to New Zealand citizens and residents who are likely to reside in New Zealand long-term. This excludes those on work visas, even if they intend to transition to a residence visa and reside long-term in New Zealand.
- 2 Stakeholders, including English Language Partners and those involved in supporting migrant settlement, have raised concerns about access to English for Speakers of Other Languages (ESOL) for those on temporary visas who are family members of New Zealanders, including partners. These concerns were raised and responded to in correspondence from Michael Wood MP in 2018 [METIS 1139197 refers], and English Language Partners in 2021 following Hon Jan Tinetti visiting the Tauranga centre [METIS1264930 refers].
- 3 In July 2020, a short-term fund of \$1.5 million for English language schools to deliver ESOL was funded with other initiatives to support the recovery of the international education sector [CAB-20-MIN-0328.22 refers]. The eligible ESOL learners for this fund included partners of New Zealand citizens and residents on a work or a visitor visa, in addition to domestic tertiary students [METIS 1228471 refers].
- 4 While this initiative was focussed on English language schools, the delegation made provision for an option of existing domestic-funded ESOL providers to also deliver provision to the partners of New Zealanders, from existing community education funding. This was to support some providers focused on domestic students to have the same access to these learners as the international-focussed providers. Due to operational reasons related to the short-time frame of the fund, and the priority to focus on supporting the international providers, these provisions did not get extended to domestic ESOL providers before June 2021, when the delegation expired.

### Pre-Purchased English Language Tuition

- 5 In March 2021, the Tertiary Education Commission (TEC) provided you with an update on the Pre-Purchased English Language Tuition (PELT), in terms of current funding held, and how the TEC and the Ministry of Business, Innovation and Employment (MBIE) promote the use of this funding to migrant communities [AM-21-00082 refers].
- 6 During education and immigration officials' meetings you asked about the more effective use of the English Language payment from migrants (the PELT funding), and how to ensure new migrants who need English language training actually use the funding.
- 7 English New Zealand had also raised PELT funding as a funding source to support international education providers [METIS 1265696 refers].

### Extending ESOL access to Partners of New Zealanders

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- 8 We propose to extend access to Intensive Literacy and Numeracy (ILN) ESOL and Adult Community Education (ACE), where ESOL is the main focus or a specific priority, to partners of New Zealand citizens or residents, on a work or visitor visa. These groups are on specific visas that involve relationship criteria assessed by Immigration New Zealand. These visas are the: Partner of a New Zealander Work Visa and Partner of a New Zealander Visitor Visa.

- 9 We propose this to support the settlement outcomes of partners of New Zealand citizens or residents, as:
- some will arrive to live in New Zealand with high ESOL learning needs; and
  - a lack of access to ESOL provision will impact their settlement outcomes, when a high percentage transition to a residence visa.
- 10 These groups' relationship links to New Zealand citizens or residents, and high likelihood to transition to a resident visa, was recognised through the COVID-19 border restrictions. These temporary visa categories were one of the few specific groups of non-residents that could still enter New Zealand. We do not propose to extend ESOL access to other groups, such as those on work visas, as the transition rate to residency is lower.
- 11 The transition rate for people on Partner of a New Zealander work visa to a resident visa is over 80% after three years. On average 90% of total family category residents are still residing in New Zealand after three years. While there would be some partners of New Zealanders that could gain ESOL provision and not remain in New Zealand long-term, that group would be limited.

### **Extending access to ILN ESOL and ACE**

- 12 ESOL courses covered through ILN ESOL and ACE will support those with high ESOL needs to start improving their English as they start their life in New Zealand. Only those with high ESOL needs, or those looking to build ESOL for employment contexts, are likely to enrol in this provision.
- 13 For ACE, it will cover all ACE provision funded, not only ESOL, as it would be more appropriate to have same learner eligibility for the whole fund. The other ACE-funded provision is mainly to support literacy and numeracy generally (broader than ESOL-specific) and te reo Māori. These can still support settlement in New Zealand.
- 14 The proposed change does not include higher level ESOL study towards formal ESOL qualifications at levels 1-5 on the New Zealand Qualifications Framework through the Student Achievement Component (SAC) fund. This fund has not been included in the proposal as the priority is to support those with very high ESOL needs to start accessing support at lower levels. Also, including any SAC funded provision creates a risk of the partners of New Zealanders receiving support for non-ESOL provision, which is not the intent.

### **People to benefit from ESOL access**

- 15 It is difficult to estimate the number of Partners of New Zealanders that may take up the ESOL provision. There is limited information on English levels for Partners of New Zealanders, as they do not need to meet English language requirements to gain residency through partnership. The nationality of the partner can provide a proxy indication, given the country's official languages and language in education system. However, individual English language abilities vary within this.<sup>1</sup>
- 16 As at 31 October 2021, around 8,200 people were on a Partner of New Zealander Work Visa, and over the calendar year to 31 October 2021, 1,400 people were approved for a Partnership of New Zealander Visitor Visa. In total, around 9,600 people

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<sup>1</sup> Around 30% those being granted a partnership resident visa are from China or India, where some partners will have qualifications achieved in English and some very limited English. For India, English is an official language, but this language ability varies, with a significant proportion of the population having no, or limited, English.

could be currently residing on these visas going into 2022.<sup>2</sup> Around half have a nationality that could be categorised as a non-English speaking background (NESB). If an estimated 20% of NESB partners take up ESOL in a calendar year, that would be another 1,000 learners.<sup>3</sup> ILN ESOL learners currently total 3,500 and ACE learners in ESOL have 15,000 learner places a year.

### **Additional learners and financial impact**

- 17 This change would result in a targeted group of learners being able to access ESOL support earlier, prior to being granted a residence visa. The impact on additional learners accessing ESOL from this change will mainly be in the first two years, over 2022–2024. By 2024, Partners of New Zealanders with ESOL needs, who transitioned to a Partnership resident visa in 2024, could have already accessed ESOL support earlier, and their post-residence ESOL need would have lessened.<sup>4</sup>
- 18 While there are tertiary education funding pressures, this change would have a modest impact on the Community Education category of the Tertiary Tuition and Training Multi-category Appropriation. While we expect demand pressure in 2022, underspends in the Refugee English Fund within Community Education are still expected. This underspend could offset some of the small demand pressure from this change to access ILN ESOL or ACE.

### **Implementation within tertiary education**

- 19 The domestic tertiary student Gazette Notice would be updated, as attached as Annex 2, with new category (h) added. The changes would be communicated to ILN ESOL and ACE providers. They would need to verify these specific visas, as they do for resident visas or those with refugee status. As ESOL providers have been some of the groups to raise this access issue, we expect most will welcome the change.

### **Immigration settings**

- 20 The Partner of a New Zealander work or visitor visa has, as standard conditions, a limit on study to under three months. Holders of these two visas can apply for a variation of conditions to their visa, that include provisions for part-time study of over three months.
- 21 While ACE and ILN ESOL courses could both be under or three months, or more than three months, both are informal learning that do not meet the Immigration New Zealand definition of full-time study, that would require a student visa. Immigration New Zealand could also in future consider exempting ACE and ILN ESOL from the need to seek a variation of conditions for these specific visas, as they do for work visa holders undertaking industry training.

### **Pre-purchased English Language Tuition (PELT)**

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- 22 PELT payments seek to recognise the additional cost from new residents with low-level English needing to access ESOL provision or translation and interpreting services, when interacting with health and other services. While this purpose is valid,

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<sup>2</sup> The number of people on these partnership visas could increase in future, depending on immigration settings. For example, the 2021 Resident Visa may lead to further applications from 2023. But other changes to immigration categories, could reduce new residents and any associated partnership visas.

<sup>3</sup> This is probably a high estimate, as many from NESB may have adequate English, or be working full-time or caring for family without intention to undertake ESOL courses.

<sup>4</sup> Assuming average transition rate is two years, then by 2024, it will only be new Partners of New Zealanders on temporary visas gaining access, and those who transitioned from this group to residence visa would have had access before resident visa.

PELT is not fit for purpose in its current form, as the administration is overly complex. PELT payments could support the same purpose in more simple way.

### **Uptake has increased, but payments are underutilised**

- 23 Annex 1 has some further details on current settings and utilisation of PELT payments. MBIE and the TEC have actively promoted uptake in recent years. However, factors that have influenced a lack of utilisation include:
- administration is complex;
  - there was lack of understanding by some migrants about the PELT being support for them, and not a fee. MBIE and TEC have worked to improve this, and proactively contact migrants;
  - that as residents, they can access fees-free ESOL for most courses without PELT;
  - many residents with PELT payments are from parents of migrants (prior to the pause to the parent category in 2016), coming to join their family, with less focus on gaining English, especially through provision at tertiary providers.

### **Options to use PELT funding for other purposes**

- 24 PELT funding currently needs to be available to the individual that made the payment for a period of five years to use for ESOL courses. After five years, instead of returning to consolidated crown accounts, from Budget 2020, expired PELT payments could be reallocated to support the purpose they were collected. Cabinet agreed that underutilised PELT funding would be re-allocated to support translation and interpreting services through the Language Assistance Services programme over 2020/21 to 2022/23. The final amounts reallocated over these years from the expired PELT funding would be agreed to by the Ministers of Immigration, Education and Finance [CAB-20-MIN-0153.11 refers].

#### *Current process – funding that is not used by individual migrant within five years*

- 25 In March 2022, following across-agency consultation, MBIE will provide advice to the Ministers of Immigration, Education and Finance on the proposed final reallocation of the hypothecated expired (unutilised) PELT payments from 2021/22. In May 2021, MBIE estimated that around \$5 million of PELT funding in total over 2021/22 and 2022/23 would be unutilised, with \$3.3 million currently agreed by Cabinet to be reallocated for the language assistance services programme.
- 26 Depending on final utilisation of PELT payments and transfer to the Language Assistance Services programme, there could be scope for some small additional reallocation options. Any reallocations would need to be in-line with the criteria for reallocation of PELT agreed by Cabinet [CAB-20-MIN-0153.11 refers]. The criteria include that they support the outcomes and success indicators of the New Zealand Migrant Settlement and Integration Strategy (NZMSIS), and not duplicate any other government activity or crowd out service provision by other organisations.
- 27 Given the criteria set by Cabinet for reallocation of PELT, and that there is extensive ESOL already funded by the government, an option to fund additional ESOL would need to have a specific focus and not replace existing Vote Tertiary Education funded provision. Under the current criteria, whether international-focussed ESOL providers could gain support from this underutilised funding, as raised by English New Zealand, would depend on if they had suitable provision options, could reach the right target groups, met gaps in coverage, and did not duplicate or crowd out existing provision.

- 28 Given the criteria, a more suitable option to support access to ESOL could be initiatives that support gaps in services, such as those that help reach communities with ESOL needs and facilitate them to access their appropriate ESOL option. Officials will consider options through MBIE's cross-agency process.

9(2)(f)(iv)

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### ESOL access issues across tertiary education network

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- 31 The extension of refugee resettlement areas to smaller areas, such as Levin, Masterton and Ashburton, will require ESOL provision to reach these communities. The TEC is working with the sector on options for supporting ESOL needs across new refugee resettlement areas, but there are challenges.
- 32 With decline in recent migration, lack of inward international students and the tight New Zealand labour market, there have been declining ESOL enrolments in higher levels of provision, at levels 3-5. These higher levels support people to gain skills they need to transition into higher levels of general tertiary study, including degree-level.
- 33 The decrease in enrolments with falling funding from this provision could affect decisions to offer ESOL learning, especially for smaller providers. Te Pūkenga is the main provider for domestic students in level 3-5 ESOL qualifications, so should have economies of scale. However, despite his large network one of their subsidiaries, Whitirea, will discontinue its ESOL provision from 2022. Porirua residents will have local access to lower-level ESOL courses at other providers, but for higher provision would need to access that in Wellington.
- 34 We will work with government agencies that have an interest in migrant outcomes, stakeholders and tertiary providers on issues around ESOL provision, and how to address network issues to support learner access, and to meet settlement support expectations for refugees and migrants.

### Next steps

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- 35 If you agree to the proposed change, the Ministry will publish the Gazette Notice to take effect on 1 January 2022.
- 36 In March 2022, MBIE will provide advice to the Ministers of Immigration, Education and Finance on the proposed allocation of the hypothecated expired (unutilised) PELT fees from 2021/22.



## Annex 1: Additional PELT information

### Current arrangements are administratively complex

Migrants from specific immigration categories, mainly parent category, residence from work category and partners' of skilled migrants, make an additional payment to Immigration New Zealand, if they are below the required English language level for the respective residence visa. People pay between \$1,700 and \$6,800 for PELT, depending on the gap to the English requirement. Some people will pay the funding rather than undertake accredited tests for IELTS. This payment is set aside for them to utilise when accessing ESOL provision after they start residing in New Zealand on their residence visa.

At its peak, before the parent category was paused, around \$9 million was collected from PELT in 2015/16 with residence visa applications (around 3,000 people). This declined to around \$5 million in 2018/19 (from around 1,500 people), before the impact of COVID-19. With changes to immigration settings, and impact of COVID-19 on granting residence visas, the funding collected through PELT in 2021/22 will decline. This includes impact from some partners of Skilled Migrant shifting to the 2021 Resident Visa category, with no English requirements.

PELT funding is held in individual accounts administered by the TEC. For people to access their individual PELT funding, their tertiary provider applies to draw down this funding from the TEC. As all are residents, they can already access fees-free most ESOL under mandated fees-free settings, except at level 3 or above, and some ACE providers that have minimal fees. Providers delivering fees-free ESOL could seek funding for additional self-funded learner place from the PELT funding, but they cannot charge fees.

**Uptake have increased, but aims of migrants and complex administration can limit this**  
Funding is held there for five years. In 2020/21, \$1.7 million was returned to MBIE as unutilised funding after being held for five years. This was less than previous unutilised funding amounts, due to PELT payments collected decreasing and an increase in people utilising their PELT funding.

**Table 1: Expired PELT funding returned to MBIE**

Financial Year	Repayment Date	Repayment Amount (GST incl)
2018/2019	28 June 2019	\$3,558,854.23
2019/2020	29 June 2020	\$2,725,512.31
2020/2021	23 December 2020	\$1,185,684.10
2020/2021	30 June 2021	\$1,729,323.16

Over 2012/13 to 2016/17, the majority of PELT payments came from people gaining residence through the parent category. While TEC and MBIE have worked to increase uptake of PELT within the five-year period, given many are parents of NZ residents and come to join their children and grandchildren, they don't necessarily take up ESOL classes at tertiary providers.

Of those with PELT payment expiring in 2021, 57% have been fully consumed, 6% partly consumed and 37% not consumed any. The utilisation of PELT has increased since 2018. Of people who have not used any PELT payments that are expiring in 2021, 70% were from those aged over 60 years.

**Table 2: Utilisation rate of PELT funding by year entitlement expires**

Year entitlement expires	Fully consumed	Not consumed	Partly consumed
2018	50%	41%	9%
2019	51%	42%	6%
2020	52%	42%	7%
2021	57%	37%	6%



## Annex 2: Proposed Gazette Notice

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### **The Domestic Tertiary Students Notice 2022**

Under section 10(1) of the Education and Training Act 2020, paragraph (a)(iii) of the term “domestic tertiary student”, the Minister of Education acting by and through Andy Jackson, Hautū / Deputy Secretary, Te Puna Kaupapahere / Policy, Ministry of Education under delegated authority, gives the following notice.

#### **Notice**

1. Title and commencement
  - a. This notice may be cited as the Domestic Tertiary Students Notice 2021.
  - b. This notice shall come into force on the 1 January 2022.
2. Persons of the following class or description are required to be treated as if they are not international students:
  - a. A person who has a letter from the Protocol Division of the New Zealand Ministry of Foreign Affairs and Trade confirming that they are for the time being entitled to any immunity from jurisdiction by or under the Diplomatic Privileges and Immunities Act 1968 or the Consular Privileges and Immunities Act 1971 (for the current academic year, and until the end of the year in which that status expires).
  - b. A person who has made a claim to be recognised as a refugee or a protected person under Part 5 of the Immigration Act 2009, and who is the holder of a valid temporary visa.
  - c. A person who is:
    - (i) recognised as a refugee or a protected person under Part 5 of the Immigration Act 2009 who, for the time being, has not been granted a New Zealand residence class visa;
    - (ii) the partner and any child in New Zealand of a person under paragraph 2(c)(i);
    - (iii) the parent and any sibling in New Zealand of a person under paragraph (2)(c)(i) who is a dependent child.
  - d. A person who is in New Zealand to study under a New Zealand Government approved exchange programme at a tertiary education provider.
  - e. A person who is enrolled in a Doctor of Philosophy programme at a New Zealand university.
  - f. A person who is enrolled at a tertiary education provider for the purpose of participating in training or an apprenticeship that is funded by the Tertiary Education Commission through the Industry Training Fund in force at the time and issued under section 419 of the Education and Training Act 2020.
  - g. A person who is:
    - (i) enrolled in a course of study or training funded by the Tertiary Education Commission for search and rescue training; and

- (ii) entitled to remain in New Zealand on a visa for at least six months from the date of their enrolment in that course of study or training.
- h. A person who is:
  - (i) enrolled in a course of study or training funded by the Tertiary Education Commission through the Intensive Literacy and Numeracy English for Speakers of Other Languages Fund or the Adult Community Education Fund; and
  - (ii) residing in New Zealand on either a Partner of a New Zealander Work Visa or a Partner of a New Zealander Visitor Visa.
- i. A person who is enrolled at a tertiary education provider in a short-term work-related training course that:
  - (i) receives no funding from the Tertiary Education Commission under section 419 of the Education and Training Act 2020; and
  - (ii) is for a period of 10 days or less; and
  - (iii) is required by their employer for the particular work being undertaken.
- j. For the period between 1 January 2022 and 31 December 2023, a person who is:
  - (i) residing in New Zealand; and
  - (ii) aged 25 years or under as at 1 January 2022; and
  - (iii) either;
    - A. the child of a person who held a valid visa of one of the following types as at 29 September 2021:
      - Post Study Work Visa
      - Talent (Accredited Employer) Work Visa
      - Essential Skills Work Visa
      - Religious Worker Work Visa
      - Talent (Arts, Culture, Sports) Work Visa
      - Long Term Skill Shortage List Work Visa
      - Silver Fern Practical Experience Work Visa
      - Trafficking Victim Work Visa
      - Migrant Exploitation Protection Work Visa
      - Skilled Migrant Category Job Search Work Visa
      - Victims of Family Violence Work Visa
      - South Island Contribution Work Visa
      - Work Visa granted under Section 61 (provided the applicant held another eligible visa type within 6 months before being granted a Section 61 visa)
      - Longer-term Other Critical Workers visas (granted for longer than 6 months)
      - Longer-term Critical Health Workers visa (granted for at least 6 months); or
    - B. the child of a person who holds a Critical Purpose Visitor Visa granted between 29 September 2021 and 31 July 2022 under one of the following categories:
      - Critical Health Workers (granted for longer than 6 months)
      - Other Critical Workers visas (granted for at least 6 months).

3. Revocation of the Domestic Tertiary Students Notice 2021

This notice revokes the Domestic Tertiary Students Notice 2021 published in the New Zealand Gazette 21 April 2021.

Dated at Wellington this            day of            2021

Andy Jackson, Hautū / Deputy Secretary, Te Puna Kaupapahere /Policy, Ministry of Education.

Proactively Released