



COVERSHEET

Minister	Hon Ginny Andersen	Portfolio	Digital Economy and Communications
Title of Cabinet paper	Approving the Game Development Sector Rebate design features	Date to be published	1 November 2023

List of documents that have been proactively released		
Date	Title	Author
5 May 2023	Approving the game development rebate design features	Office of the Minister for the Digital Economy and Communications
30 August 2023	Game Development Sector Rebate: Design Features DEV-23-MIN-0205 Minute	Cabinet Office

Information redacted

YES / NO (please select)

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Some information has been withheld for the reasons of constitutional conventions, commercial information, and free and frank opinions.

The Game Development Sector Design Features document is available at [Game Development Sector Rebate scheme | NZ On Air](#)

In Confidence

Office of the Minister for the Digital Economy and Communications
Cabinet Economic Development Committee

Approving the game development rebate design features

Proposal

- 1 This paper seeks Cabinet's agreement to the design features for the Game Development Sector Rebate (GDSR).

Relation to government priorities

- 2 Growth in the digital technology sector supports the Government's vision for a high-wage and low-emissions economy, and our efforts to increase the diversity and resilience of New Zealand's economic activity. Support for the game development sector also contributes to efforts under the Digital Technologies Industry Transformation Plan to build export revenues and help create higher value jobs for New Zealanders.

Executive Summary

- 3 The GDSR formed part of our Budget 2023 announcements. Cabinet indicated it wished to agree the final scheme design in August, after a period of public consultation on proposed eligibility criteria and other features. Two phases of consultation have taken place and the sector provided useful and overall positive feedback. Some scheme design features have been clarified or adjusted to better fit the sector. In addition, following our discussion on 23 August, the scheme now incorporates a pilot application phase for year one, which will allow a small number of firms to submit a partial year application and receive funding in October-December 2023. This pilot will provide NZ On Air, the delivery agency, an opportunity to test its administrative processes with a small group of firms, in advance of the standard application process happening for all firms in 2024. No other substantive changes have been made to the scheme design initially proposed.
- 4 Cabinet has authorised the Economic Development Committee (DEV) to have Power to Act on my submission. I am therefore seeking DEV's agreement of the GDSR's final design features, set out in the 'Game Development Sector Rebate – Design Features' document appended to this paper. I will inform the sector of the finalised design features as part of my opening remarks at the New Zealand Game Developers Association annual conference on Friday 1 September. The design features document will be made available by NZ On Air.

5 Constitutional conventions

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Background

7 The GDSR was announced as part of Budget 2023, with operating funding of \$40 million per annum for delivering and administering a rebate. It aims to catalyse growth and job creation in mid- to large-sized game development studios to strengthen the domestic game development sector. It supports the Government's vision for a high-wage, low-emissions economy, and can help bolster efforts to increase the diversity and resilience of New Zealand's economic activity and build export revenue.

8 In advance of the Budget announcement, Cabinet approved the launch of a two-step consultation with the game development sector and wider interested parties on draft proposals regarding rebate eligibility criteria, application processes and governance, to take place as soon as possible after Budget Day. Cabinet further noted that the final scheme design would be submitted for its agreement in August 2023, following consultation [DEV-23-MIN-0078 refers].

9 Consultation took place from late-May to early-July. Step one was a meeting between officials and representatives from the New Zealand Game Developers Association (NZGDA) and the Centre of Digital Excellence (CODE) on 23 May. Step two was public consultation on a revised consultation document, from 15 June to 6 July. Twenty-one submissions were received during the public consultation, representing medium- and large-sized firms, smaller studios, individual game developers, stakeholders in adjacent sectors, and an international media and entertainment firm, as well as the NZGDA.

10 Most feedback sought to clarify elements of the GDSR's design features, and to adjust some criteria to better fit the sector's operational practices and target the scheme's objectives. Officials have prepared a 'Game Development Sector Rebate – Design Features' document that takes on board relevant feedback.

11 Constitutional conventions

12 Following our discussion on 23 August, we agreed to recommend that Cabinet authorise DEV to have Power to Act at its meeting on 30 August 2023 to take decisions on this submission, if required.

- 13 This paper briefly describes the final design features proposed for the GDSR, noting key issues raised in the consultation and the approach taken to incorporate feedback (the final document is appended for DEV's approval). Constitutional conventions

Final design features

- 14 The key parameters of the GDSR remain unchanged. It is a rebate on eligible expenditures of eligible firms, at a rate of 20%. A firm's rebate payment is capped at \$3 million per annum and the minimum qualifying expenditure per annum is \$250,000. The GDSR is effective as of 1 April 2023 and eligible firms may count eligible expenditures from this date.
- 15 The design features go into detail on eligibility criteria (for firms, game development activities and expenditures), application processes and governance. These are the settings that will govern who may access the GDSR, the portion of their expenditures that count towards the rebate, and the general application procedures they will follow. They will be augmented in due course by more detailed operational guidelines on the precise application process and deadlines from NZ On Air, the delivery agent.
- 16 Officials took on board feedback from the consultation as well as DEV's discussion on 23 August regarding early payments. As an overview of the final design (see appended paper):
- 16.1 Eligible businesses must undertake relevant game development activity and be a New Zealand resident with a New Zealand Company Number or a foreign resident with a permanent establishment in New Zealand and a New Zealand Company Number;
- 16.2 The scheme will apply to eligible expenditure on digital games that are intended for general public release for entertainment or educational purposes, but will not apply to expenditure on digital games that are a gambling service, substantially comprised of gambling, or include game mechanics that allow real money winnings;
- 16.3 Eligible expenditures may be incurred in, or in relation to, developing digital games, including post-launch content creation and adaptation or porting of a game for use on particular platforms;
- 16.4 Eligible expenditures will include well-structured market-level remuneration packages, included in employment or contractor agreements, paid to employees and independent contractors who are domiciled in New Zealand who perform work or services directly for the business that are attributable to the development of digital games;
- 16.5 Eligible expenditures do not include general business overheads, expenditure on the use of land or premises, or depreciation not related to game production hardware and software;

- 16.6 The application process will include a registration step and a statement of “readiness” to verify the business has robust processes in place to accurately establish its eligible expenditures and rebate claim;
- 16.7 Exceptionally in year one, eligible businesses that anticipate eligible expenditures for the period 1 April 2023 to 31 March 2024 of \$5 million or above, may submit an application for a rebate on expenditures already incurred in the six months 1 April 2023 to 30 September 2023. NZ On Air will assess this application and, subject to it meeting the standard eligibility criteria, will pay the claim, with payment flowing to businesses in the October-December 2023 quarter. Over- or under-payments to the business will be balanced as part of the standard application and assessment process at the end of the eligibility period.
- 16.8 If the scheme is over-subscribed, funding will be allocated pro-rata.
- 17 Most revisions to the initial design proposals were minor and sought to provide clarification or better tailor criteria for sector specificities. Some proposals garnered more attention in the consultation, and revisions were made in response, as follows:
- 17.1 The requirement for eligible businesses to meet a threshold of 75 per cent of annual gross income derived from game development activities was deleted. This change recognises creative businesses often have multiple revenue streams and this proposal could have created unhelpful incentives to spin-out game development activities into separate businesses. Other eligibility criteria provide sufficient checks to target the rebate to its intended use.
- 17.2 The definition of eligible games was clarified, indicating that location-based experiences, such as those found at museums, could be included.
- 17.3 Some additional categories of eligible expenditure were added, notably for participation in game development conferences and events to support successful commercialisation of games.
- 17.4 The proposed blanket exclusion for games with lootboxes was also removed, so as to be consistent with New Zealand’s Gambling Act 2003, which does not identify lootboxes as gambling. This change also recognises that lootboxes are relatively common in popular games and part of standard revenue models for the game development industry globally. However, games with game mechanics that allow real money winnings remain excluded from the GDSR.
- 18 The pilot application phase for year one, noted in 16.7 above, addresses DEV’s 23 August feedback and provides a valuable mechanism for NZ On Air to test its administrative processes on a small number of game development firms. It also recognises sector submissions calling for early payments and provides a controlled test of one approach to this. The pilot is deliberately time limited and narrow, to maintain integrity in the delivery of the scheme. In particular:

- 18.1 As a new scheme, administrative systems and teams are currently being established to deliver the rebate. The rebate's first standard application period will open on 1 April 2024 and NZ On Air, as the delivery agent, has limited capacity in the immediate term to receive and assess a large number of applications. Narrowing the eligibility criteria for this pilot phase will limit the number of businesses applying and enable NZ On Air to manage the applications with an appropriate level of rigour.
- 18.2 In addition, restricting the pilot application phase to businesses with higher levels of expenditures will target larger firms with likely stronger internal financial monitoring, a greater capacity to submit a robust application, and potentially more diverse eligible expenditures to test NZ On Air's administrative systems. These firms are also larger employers and play a significant role in the game development sector ecosystem as innovators, mentors and generators of new spin-off studios. Piloting with these firms is likely to provide the biggest pay-off, both in regard to stress-testing the administrative systems and in providing an element of early support to the sector.
- 18.3 **Constitutional conventions**
- 19 Regarding lootboxes, I note that there are some domestic and international concerns that lootboxes may be psychologically similar to conventional forms of gambling and may have negative effects, particularly on younger players. However, the issue is complex as lootboxes may take a variety of forms and may not all involve real money expenditure. Typically, lootboxes involve players redeeming a 'consumable virtual item' to receive a selection of randomised items (such as new features for their characters). Another example is opening a treasure chest within a game and finding random rewards inside. The design features document highlights to the sector that lootboxes are an area of concern and advises that rebate applicants will need to inform whether the games on which they are seeking an expenditure rebate may contain lootboxes and the general features of those lootboxes. This transparency will aid any future consideration of the issue. I suggest this issue is explicitly monitored in the scheme reviews scheduled at the two- and four-year marks.
- 20 Unsurprisingly some submissions called for changes to the GDSR's key parameters, in particular increasing (or removing) the overall rebate cap, increasing the rebate rate from 20 per cent, and increasing the per firm per annum cap from \$3 million. However, as noted above, these parameters remain unchanged.
- 21 I note that maintaining the rebate rate at 20% keeps the GDSR in alignment with support provided for post, digital and visual effects (PDV) under the New Zealand Screen Production Rebate. The minimum qualifying expenditure threshold of \$250,000 also remains in alignment. Cabinet has previously noted the importance of considering incentives for game development and the screen sector in a coordinated way to reduce misalignment as much as possible [DEV-23-MIN-0044].

22 As previously noted by Cabinet, the Ministry of Business, Innovation and Employment will review the scheme after two years to gauge uptake and early impact. It will then undertake a review by 30 September 2027 to assess whether the scheme provides net benefits to New Zealand and whether modifications should be pursued. These reviews provide an opportunity to reflect on the operation of the GDSR, including the experience with the pilot phase, as well as any relevant discussions or legislative processes taking place, and their potential implications for the scheme's design features.

Constitutional conventions

23 Constitutional conventions

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27 Constitutional conventions

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Implementation

29 Once the detailed design is approved, NZ On Air will make the ‘Game Development Sector Rebate – Design Features’ document available on its website. MBIE is currently working with NZ On Air to finalise a funding agreement for delivery of the rebate. NZ On Air is developing detailed timelines and strategies to effectively put the fund into operation. The GDSR is effective as of 1 April 2023, with eligible firms able to count eligible expenditures from this date. The first eligibility period for rebate payments is 1 April 2023 to 31 March 2024. Forthcoming milestones are:

Milestone/Activity	Timeframe
Publication of GDSR design features	September 2023
Registration and pilot phase applications open	October 2023
Payment on pilot phase applications	By December 2023
Standard applications open for year 1 funding	April 2024
Processing of year 1 applications	April – June 2024

Cost-of-living Implications

30 This proposal will not have direct impacts on the cost of living. Indirectly, those working in the sector may benefit from increased take-home pay and be better positioned to cope with cost-of-living increases. Sector growth and creation of additional high-wage jobs will further assist those in the sector to face cost-of-living increases.

Financial Implications

31 There are no financial implications related to Cabinet’s finalisation of the GDSR design features.

Legislative Implications

32 This proposal does not have any legislative implications.

Impact Analysis

Regulatory Impact Statement

- 33 A Regulatory Impact Statement has not been prepared. The proposals do not involve the potential introduction of new legislation, or changes to or the repeal of existing legislation.

Climate Implications of Policy Assessment

- 34 This proposal does not require a Climate Implications of Policy Assessment (CIPA).

Population Implications

- 35 This proposal does not have direct implications for specific population groups.

Human Rights

- 36 There are no human rights implications related to this paper.

Use of External Resources

- 37 MBIE engaged the services of a consultant to provide independent expertise during the drafting and finalisation of the GDSR design features. The consultant is an international game industry entrepreneur, advisor and cluster development expert, with deep sector-specific knowledge. Their services were used to provide expert review of the initial draft consultation document on the GDSR design features, further advice in refining the consultation document for public consultation, and targeted advice in the finalisation of the GDSR design features.

- 38 **Commercial information** This allowed timely access to highly sector-specific knowledge that is not held within the public service and supported swift progress on scheme design in the context of tight time constraints. **Free and frank advice**

Consultation

- 39 Two stages of consultation on the GDSR design features took place with sector stakeholders and other interested parties. Reactions were broadly supportive of the scheme's detailed design and the sector appreciated the opportunity to be involved in the process. Inland Revenue also provided feedback on the scheme's design, and the Department of Internal Affairs provided advice on the treatment of lootboxes. Officials have taken on board feedback from the consultation as well as DEV feedback from our discussion on 23 August. They also took soundings with NZGDA representatives regarding the pilot application phase. Aside from the addition of a pilot application phase for year one to address DEV's feedback, no substantive changes were made to the detailed design features previously reviewed by Cabinet.

- 40 In consultation on this Cabinet paper, Treasury advised their preferred option to address any underspend is for rollovers to be requested at the end of the relevant financial year.

Communications

- 41 I will inform the sector of the finalised design features as part of my opening remarks at the New Zealand Game Developers Association annual conference on Friday 1 September. The design features document will be made available online by the delivery agency, NZ On Air.
- 42 As part of communications, I would highlight that the Government is aware of the potential harms associated with lootboxes and that we will be monitoring the extent to which lootboxes form part of the activities funded under the rebate.

Proactive Release

- 43 I intend to proactively release this paper with appropriate redactions, in accordance with Cabinet Guidelines.

Recommendations

The Minister for the Digital Economy and Communications recommends that the Committee:

- 1 **note** a rebate scheme for the game development sector was included in the Budget 2023 package, with funding of \$40.000 million per annum plus \$0.500 million in financial year 23/24 for capital expenditure;
- 2 **note** that in May 2023, Cabinet approved a two-step consultation on the detailed design of the game development sector rebate and noted that the final scheme design would be submitted for Cabinet agreement in August 2023 [DEV-23-MIN-0078];
- 3 **note** that this consultation took place from late-May to early-July 2023;
- 4 **note** that Cabinet has authorised the Committee to have Power to Act at its meeting on 30 August 2023 to take decisions on this submission, if required;

Final design features

- 5 **note** that the key parameters of the rebate remain unchanged, with a rate of 20%, a per firm per annum cap of \$3 million and a minimum qualifying expenditure threshold of \$250,000;
- 6 **note** that a pilot application phase has been included for year one of the scheme's operation, in response to Ministerial discussions, but that no other substantive changes were required to the detailed design of the rebate, including its eligibility criteria, as a result of the consultation;
- 7 **agree** to the publication of the 'Game Development Sector Rebate – Design Features', which sets out the final design features for the rebate;

- 8 **note** that the Ministry of Business, Innovation and Employment will review the scheme after two years to gauge uptake and early impact and will undertake a review by 30 September 2027 to assess whether the scheme provides net benefits to New Zealand and whether modifications should be pursued;

Approach to underspend

- 9 **note** the public consultation highlighted that sector growth will imply greater calls on the rebate funding over time, though there may be some underspend in the first years of scheme operation;

- 10 Constitutional conventions

Implementation

- 11 **note** that NZ On Air, as the delivery agent for the rebate, is developing detailed timelines and strategies to effectively put the fund into operation, including the pilot application phase for year one;

Communication

- 12 **note** the Minister for the Digital Economy and Communications will inform the sector of the final rebate design features and NZ On Air will make the ‘Game Development Sector Rebate – Design Features’ document available.

Authorised for lodgement

Hon Ginny Andersen

Minister for the Digital Economy and Communications

Appendices

Game Development Sector Rebate – Design Features