

Allocation of cultural materials guideline

For the takiwā of Ngāi Tahu whānui

2007



Te Rūnanga o NGĀI TAHU



Department of Conservation
Te Papa Atawhai

Allocation of cultural materials
guideline for the takiwā of the Ngāi
Tahu whānui

2007

Prepared by

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Operations

QD 1634

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This guideline was developed principally by Toitū Te Whenua, Te Rūnanga o Ngāi Tahu in association with its 18 Papatipu Rūnanga and the Department of Conservation, Southern Operations and the Pou Kura Taiao -Te Waipounamu.

1.0 INTRODUCTION

1.1 Purpose

The purpose of this guideline is:

1. To provide a process for Ngāi Tahu to access cultural materials in the takiwā of Ngāi Tahu whānui.
2. To provide a process to enable Ngāi Tahu input into:
 - the allocation and use of cultural materials which have come into the Department's possession and stored in the cultural materials banks. (refer Clause 4.4 (c) Protocols 1998)
 - the collection, use and allocation of cultural materials in situ, which are under the Departments jurisdiction.
 - the decision making process in terms of the use of those cultural materials where there are competing requests from non Ngāi Tahu persons for the use of cultural materials eg for scientific or educational purposes (refer Clause 4.3 (d) Protocols 1998; refer to the Research, Collection and Wildlife Act Permitting SOP)

Cultural materials are defined as:

- Plants, plant materials; and
- Materials derived from animals, marine mammals or birds, to the extent to which the Department holds and is responsible for them, and which are important to Ngāi Tahu in maintaining their culture
[Definition from Deed of Settlement Protocols 1998]

This guideline covers the following:

1. The application process for Ngāi Tahu Whānui for feathers and other bird material (s. 296 of the Ngāi Tahu Claims Settlement Act) for which a permit is not required.
2. The application process for permits to hold or collect cultural materials by Ngāi Tahu for any material other than birds.
3. The consultation process for the assessment of other applications to hold cultural materials (e.g. applications for birds for display purposes).

4. Consultation with Ngāi Tahu where the Department is undertaking research.

This guideline does not cover:

1. Applications made under the Research, Collecting and Wildlife Act Permitting SOP (<dme://olddm-503294>).
2. Applications for concessions under Part IIIB of the Conservation Act 1987.

The guidelines are considered useful for:

- Documenting an agreed approach between the Department and Ngāi Tahu to applications for the allocation (to hold or collect) of cultural materials from within the takiwā of the Ngāi Tahu whānui.
- Recognising and giving expression to the mana and kaitiaki status of Papatipu Rūnanga in respect to cultural materials from within the takiwā of the Ngāi Tahu whānui.
- Ensuring a consistent approach to applications across the five Conservancies and 18 Papatipu Rūnanga.
- Providing clarity for applicants.
- Ensuring the holder of the material has the correct authorisations.
- Giving effect to the Protocols in respect to competing requests for scientific and research applicants (refer Research, Collection and Wildlife Act Permitting SOP).

1.2 Legal Context

Wildlife Act 1953

Under section 63 of the Wildlife Act it is an offence to hunt, kill or have in possession most species of wildlife without “lawful authority”. The Director General of Conservation can grant that authority under section 53 of the Act for any purpose he or she approves.

The Wildlife Act (s 56) and the Wildlife Regulations 1955 (regulation 33) also require a person “exporting” some species of wildlife (including all native birds) to obtain a permit from the Director General.

Marine Mammals Protection Act 1978

Marine mammals such as whales, seals and dolphins are protected under this Act. Section 4 requires a person to have a permit from the Minister in order to take any part of a marine mammal (such as teeth or bone), unless the part has already

naturally separated from the mammal, in which case the person must only notify the Director General. It is an offence to take part of a marine mammal without a permit (section 23.)

Conservation Act 1987, National Parks Act 1980, Reserves Act 1977

Under these Acts various types of permits are required to take plants and animals from conservation areas, national parks and reserves. In general it is an offence to take such items without consent. The type of permit required depends on the particular legislation, the material sought, and the purpose for which it will be used.

Trade in Endangered Species Act 1989

CITES (Convention on International Trade in Endangered Species of Wild Flora and Fauna) sets controls on the international trade and movement of animals and plant species that have been, or may be, threatened due to international trade. It is an international agreement between governments to which countries adhere to voluntarily. It works by subjecting international trade in specimens of selected species to certain controls (import, export, re-export and introduction of species covered by the convention are required to be authorised by a licensing permit). Refer: [CITES website](#) for more information.

Ngāi Tahu Claims Settlement Act

Section 296 (1) –(3) of the Ngāi Tahu Claims Settlement Act states that

‘members of Ngāi Tahu Whānui may lawfully have specimens in their possession. Possession of specimens may be transferred between members of Ngāi Tahu Whānui by way of gift, bequest, or other non-commercial transfer but specimens may not be transferred by way of sale, whether to other members of Ngāi Tahu Whānui or to any other person or entity’.

Specimens is defined in s.296 as ‘the dead bodies or any part of the dead bodies of any species of wildlife absolutely protected pursuant to section 3 of the Wildlife Act 1953 or partially protected pursuant to section 5 of that Act’.

Deed of Settlement Protocols (1998)

Section 4 of the Protocols relates to cultural materials and the development of this guideline is specified under 4.3 (b), (c), (d) and 4.4(a), (c).

4.3 The Department will:

- (b) Consider requests from members of Ngāi Tahu Whānui for the customary use of cultural materials in accordance with the appropriate legislation.**

- (c) *Agree, where reasonably practicable, for Ngāi Tahu to have access to cultural materials which become available as a result of Departmental operations such as track maintenance or clearance or culling of species.*
- (d) *Consult with Te Rūnanga in circumstances where there are competing requests from non-Ngāi Tahu persons or entities for the use of cultural materials, for example for scientific research purposes, to see if the cultural and scientific or other needs can be reconciled before the Department makes a decision in respect of those requests.*

4.4 *Specific projects*

The Department will, subject to clause 3.2, work with Te Rūnanga to:

- (a) *Develop and implement guidelines for each conservancy within the Ngāi Tahu Takiwā that help define levels of customary use of cultural materials, and set conditions, after consideration of tikanga, to be met for gathering;*
- (c) *Establish Departmental cultural materials banks for cultural materials which have come into the Department's possession, and guidelines for their use.*

2.0 APPLICATION AND CONSULTATION PROCESS

There are three processes:

- 2.1 The application process for Ngāi Tahu Whānui for feathers and other bird material (s. 296 of the Ngāi Tahu Claims Settlement Act) for which a permit is not required.
- 2.2 The application process for permits to hold or collect cultural materials by Ngāi Tahu for any material other than birds.
- 2.3 The consultation process for the assessment of other applications to hold cultural materials.

2.1 Process for cultural materials not requiring a permit

A permit is not needed by Ngāi Tahu Whānui for holding specimens or parts of specimens of absolutely protected or partially protected wildlife (e.g. birds). Specimens may be gifted, bequested or transferred by other non commercial means, between members of Ngāi Tahu Whānui, but not sold.

However, due to the Ngāi Tahu desire for the Kaitiaki Rūnanga to manage the allocation of birds to Ngāi Tahu Whānui from the cultural materials bank, Ngāi Tahu Whānui are encouraged to deposit dead found birds into the cultural material bank, and apply through the process for birds. It is acknowledged that weavers accessing birds directly may work outside of this process.

Application Process

1. Applicant fills out application form and sends it to the Pou Kura Taiao at the relevant DOC Conservancy [FORM A – Application For Cultural Materials](#)
2. On receiving application, Pou Kura Taiao finds out if the requested material is available in any bank (e.g. freezers) within the Conservancy.
 - a) If materials are not available in the Conservancy, the application is passed to a Conservancy likely to hold the materials or a letter advising applicant that the material is not currently available is sent. [FORM D - letter to applicant](#)
 - b) If materials are available, Pou Kura Taiao forwards application to the relevant Rūnanga group to be assessed.

West Coast & Kaikoura - Papatipu Rūnanga
Canterbury & Southland - Roopu Kaitiaki
Otago - Komiti Tuku Iho
 - c) If the application is not properly filled out with sufficient information, the Pou Kura Taiao requests further information from the applicant.
3. Assessment of application by relevant group (as listed under 2(b)). Assessment will be made according to a guideline containing assessment criteria. The assessment criteria can be made available, if requested, to applicants after the application has been received.
 - a) If the group require further information to make their decision, the Pou Kura Taiao seeks the required information from the applicant.
4. Decision made by relevant Rūnanga group to authorise or decline the application based on all information received. Authorisation may include conditions/amendments to original request.

5. Pou Kura Taiao advises applicant of the outcome of the application [FORM B – Response To Applicants where a permit is not required](#). If the application is to be declined, the reasons why, based on the assessment criteria, will be given.

A copy of the response form is sent to Te Rūnanga o Ngāi Tahu (Toitū Te Whenua) for their information to assist with monitoring and on-going review of the process.

6. The successful applicant will be sent an information sheet on [Taking Feathers and/or Kākahu Overseas \(dme://docdm-43557\)](#).
7. Details of collection (if application successful) are worked through by DOC staff with the applicant, or with the Rūnanga if materials are held by Rūnanga. Initial contact details are contained in the response form.
8. Permits will be recorded on the Permissions Database as part of the process of issuing a permit. While no permit is required in this instance it would be useful to still record the information into the database to form a record of the transaction. A paper file is kept of all applications, both successful and unsuccessful.

2.2 Process for cultural materials requiring a permit

This process applies to all applications by Ngāi Tahu for cultural materials (except for materials from birds which is covered in 2.1 above)

The following applications **will require a permit**:

(the permit issued will depend on the cultural material sought)

- applications for plant materials requiring collection from lands administered by the Department
- applications for marine mammal materials such as bone and teeth

Application Process

1. Applicant fills out application form and sends it to the Pou Kura Taiao at the relevant DOC Conservancy [FORM A – Application For Cultural Materials](#)
2. On receiving application, Pou Kura Taiao finds out if the requested material is available in any bank (e.g. freezers) within the Conservancy, or for plant materials, whether these exist in the Conservancy.
 - a) If materials are not available in the Conservancy, the application is passed to a Conservancy likely to hold the materials or a letter, advising applicant that the material is not currently available, is sent. [FORM D - letter to applicant](#)
 - b) If materials are available, Pou Kura Taiao forwards application to the relevant Rūnanga group to be assessed.

West Coast & Kaikoura - Papatipu Rūnanga
Canterbury & Southland - Roopu Kaitiaki
Otago - Komiti Tuku Iho
 - c) If the application is not properly filled out with sufficient information, the Pou Kura Taiao requests further information from the applicant.
3. Assessment of application is made by the relevant group (as listed in 2(b)) based on their own assessment criteria, and in the case of plant collection, DoC advice, and a recommendation made to local DOC staff. The assessment criteria can be made available, if requested, to applicants after the application has been received.

If the group require further information to make their decision, the Pou Kura Taiao seeks the required information from the applicant.

4. Assessment is provided to DOC.
5. A recommendation by local DOC staff is made to the decision maker (delegated authority) to authorise or decline the application based on all information received. Authorisation may include conditions/amendments to original request.
6. Depending on the effects and scale of the activity, if the application is to be declined, the applicant may receive advance notice of the recommended decision and the reasons for it and given an opportunity to comment prior to the final decision being made.
7. Pou Kura Taiao advises applicant of the outcome of the application [FORM C – Response To Applicants where a permit is required](#).

A copy of the response form is sent to Te Rūnanga o Ngāi Tahu (Toitū Te Whenua) for their information to assist with monitoring and on-going review of the process.

8. The appropriate authorisation (permit) is sent out with the response form.

This permit may be a permit to hold, collect and/or access cultural materials. All permits to hold and/or collect under the National Parks, Conservation, Reserves and Wildlife Acts are covered by the Research, Collection and Wildlife Act Permitting Standard Operating Procedure (this does not include permits under the Marine Mammal Protection Act).

9. The successful applicant will be sent an information sheet on [Taking Feathers and/or Kākahu Overseas \(dme://docdm-43557\)](#).
10. Details of collection (if application successful) are worked through by DOC staff with the applicant, or with the Rūnanga if materials are held by Rūnanga. Initial contact details are contained in the response form.
11. The Permissions Database is the place where information regarding cultural permits should be recorded. The details of the successful application are entered onto the database to form a record of the transaction. From this record information can be generated on the number and type of applications made. A paper file should be kept of all applications, both successful and unsuccessful.

2.3 Consultation process on other applications to hold cultural materials

Background

Other applications for cultural materials are processed under the Research, Collection and Wildlife Act Permitting SOP.

The Ngāi Tahu Deed of Settlement Protocols state that consultation with Ngāi Tahu is required in circumstances where there are competing requests from non Ngāi Tahu persons or entities for the use of cultural materials (as defined on page 3). The process of consultation will determine if the cultural and scientific (or other needs) can be reconciled before the Department makes a decision in respect of those requests.

This includes:

- Applications from non Ngāi Tahu persons
- Applications for specimens required for educational purposes (including museums)
- Applications for science and research purposes (external to DoC)
- Collection of specimens for science and research (for Departmental research including contracts). This does not require a permit but consultation with Ngāi Tahu is still required when there is also likely to be cultural interest in the materials e.g. native birds, marine mammal resources such as bone, teeth, oil and ambergris.

It is important to Ngāi Tahu that where possible the material is returned to the place from which it was sourced once its research purpose is completed as often the material can still be used for cultural purposes as well as research e.g. autopsies. Where the material can not be returned e.g. where it is held as part of a national collection or needs to be destroyed it is important that prior discussion with Papatipu Rūnanga has occurred.

There are three aspects to the Research, Collecting and Wildlife Act Permitting SOP to protect the interests of Ngāi Tahu in terms of cultural materials and their use.

- Where the material is considered to be a cultural material then the consultation process outlined in this guideline is triggered.
- Where the research and/or collection application triggers the need for consultation with Ngāi Tahu due to potential cultural concerns such as

disturbance to culturally significant species, commercial use, material or DNA leaving New Zealand and genetic modification.

- Where appropriate, special conditions are incorporated into the research and collection permit to address Ngāi Tahu concerns.

Consultation Process

Applications to hold material from individuals and organisations not covered by sections 2.1 or 2.2 of this guideline (ie non Ngāi Tahu) will be made via the Research, Collection and Wildlife Act Permitting SOP or under Sections 4 – 10 of the Marine Mammals Protection Act.

Additional steps have been added into this SOP to ensure that the Pou Kura Taiao is notified and that this **consultation process** is initiated where the material sought is cultural material.

Conservancy or Area Staff will contact the Conservancy Pou Kura Taiao to discuss if the material being sought is cultural material. If so, the following process will be undertaken.

1. On receiving the information from Conservancy or Area staff, including the application, the Pou Kura Taiao finds out if the requested material is available in any bank (e.g. freezers) within the Conservancy.
 - a) If no materials available, Pou Kura Taiao advises Conservancy or Area staff processing the application.
 - b) If materials are available, the Pou Kura Taiao forwards application/request to the relevant Rūnanga. The application form in this guideline may be used to ensure all the information is provided to the Rūnanga.

West Coast & Kaikoura - Papatipu Rūnanga
Canterbury & Southland - Roopu Kaitiaki
Otago - Komiti Tuku Iho
 - c) If there is not sufficient information provided, the Pou Kura Taiao requests further information.
2. Assessment of application is made by relevant group (as listed in 2(b)) according to their own criteria and a recommendation made to local DOC staff via the Pou Kura Taiao.
3. The application continues to be processed under the Research, Collection and Wildlife Act Permitting SOP.

4. A copy of the application and decision is sent to Te Rūnanga o Ngāi Tahu (Toitū Te Whenua) for their information by the Pou Kura Taiao.

3.0 Marine Mammals

Permits to hold, take, import or export marine mammals or parts of marine mammals are governed by sections 4 -10 of the Marine Mammals Protection Act 1978.

Applications by Ngāi Tahu for cultural materials from marine mammals would be processed under this Guideline. Other individuals and organisations wishing to apply for material from marine mammals will apply using the process outlined in the Marine Mammal Research Permitting SOP. However, the **consultation process** outlined in this guideline (section 2.3) is likely to apply in all instances to the allocation of material from the majority of the South Island (Ngāi Tahu whānui takiwā) due to the cultural significance of marine mammals to Ngāi Tahu.

The Marine Mammal Research Permitting SOP is currently being reviewed and part of the review will be to consider how additional steps can be added into it to ensure that the Pou Kura Taiao is notified and that this **consultation process** with Ngāi Tahu is initiated where the material sought is cultural material and is within the Ngāi Tahu takiwā.

Allocation of cultural materials derived from marine mammals is complex. Often there is interest from different parties for specific parts (e.g. jaw bone and teeth for some species are of high cultural value, whereas the skin may be required for research purposes).

Due to the unplanned nature of marine mammal strandings it is recommended that the Conservancy and the Ngāi Tahu Papatipu Rūnanga develop an agreed approach in terms of the species or materials of cultural importance including their use for research and display.

4.0 Inventory of materials in Cultural Material Banks

In the main, the cultural material banks comprise freezers within which cultural material (mainly birds) found by the Department, in the course of its work or handed in by the public, is stored. The freezers are maintained by the Department, Papatipu Rūnanga or Otago Museum (location agreed by mutual arrangement of Ngāi Tahu and the Department). The term 'cultural material bank' is also used in a more generic sense, in respect to the 'store' of materials that are available e.g. whale bone.

The Pou Kura Taiao is responsible for the oversight of the cultural materials bank and inventory. The inventory will keep a record of :-

- Materials being stored including details of where and when materials were found and their general condition. The inventory of materials held by the Conservancy is emailed to each Papatipu Rūnanga office within the Conservancy every 2 months (copied to rachel.puentener@ngaitahu.iwi.nz), and tabled at Roopu Kaitiaki meetings. An electronic inventory has been developed by West Coast Conservancy (contact Kara Edwards).
- Known sources of cultural materials found on lands administered by the Department, and suitable places for materials to be gathered. This information should be collected and recorded by the conservancy. DOC staff are encouraged to fill out “return forms” when resources are ‘discovered’ by field staff.

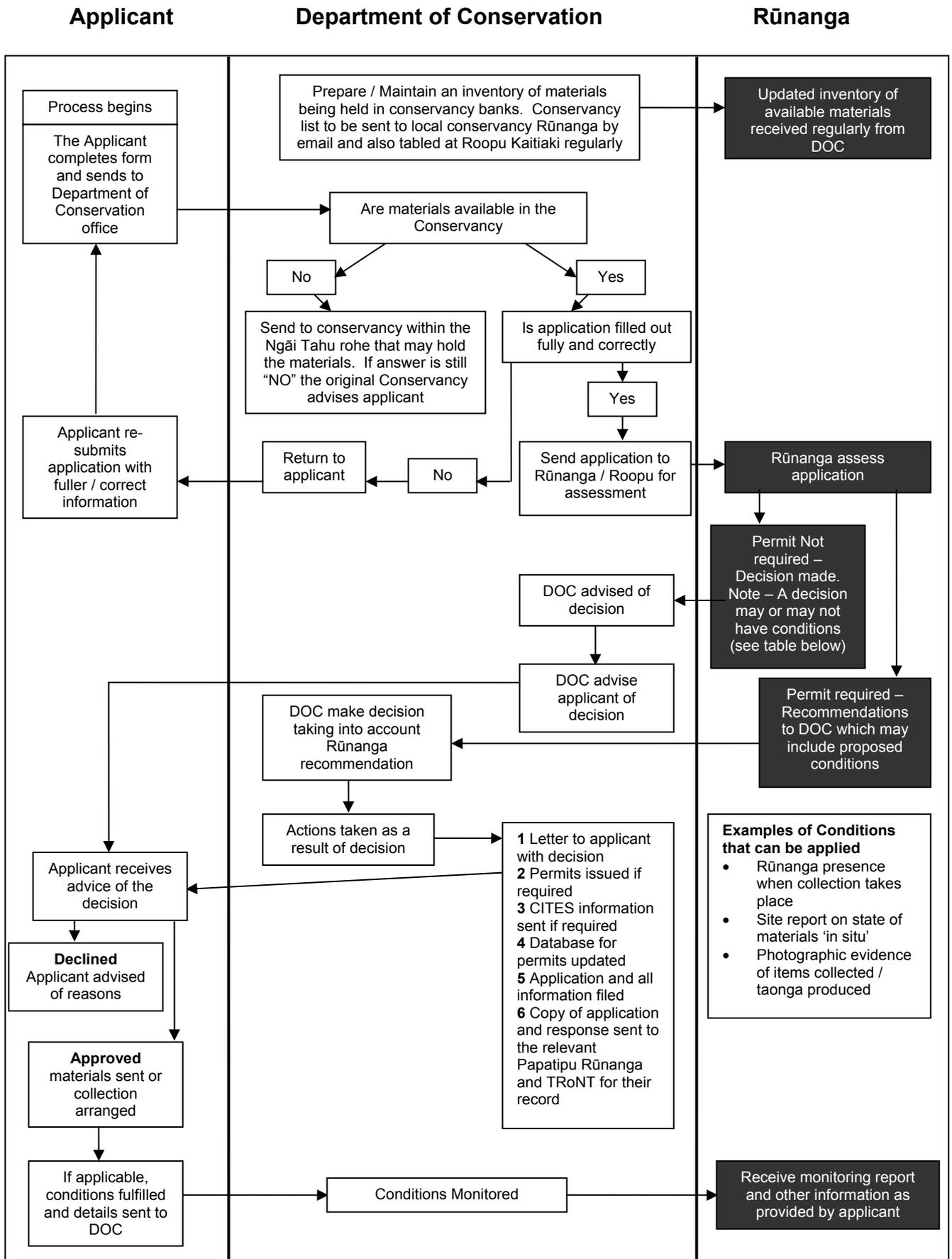
A record of the allocation of cultural materials is kept electronically via the permissions database (categories to cover permits for cultural materials are now available). Keeping a register of marine mammal permits is a specific requirement of the Act. A paper file should also be kept of the applications received and permits issued.

5.0 Monitoring

For gathering of cultural materials not stored in the cultural materials bank (e.g. plants) a monitoring/status report may need to be provided to the Papatipu Rūnanga and DOC after collection has taken place. The purpose of the monitoring report is to record the health of the site/state of the materials.

The allocation and consultation process outlined in this guideline will be monitored by keeping Te Rūnanga o Ngāi Tahu informed via copies of the response form (Form B and C). Any concerns by DOC staff or Ngāi Tahu Whānui or Rūnanga groups with this process should be sent to Te Rūnanga o Ngāi Tahu and Southern Regional Office.

Application Process for Cultural Materials



6.0 APPENDIX – STANDARD FORMS

- **FORM A - Application form for cultural materials**
- **FORM B - Response to Applicants where a permit is not required**
- **FORM C - Response to Applicants where a permit is required**
- **FORM D - Letter to Applicant – where no materials are available**

(**note:** templates for permits are available under the Research, Collection & Wildlife Act Permitting SOP for Issuing Collection or Research Concessions / Permits or Wildlife Act Permits).



FORM A – Application For Cultural Materials

Application For Cultural Materials

***Please fill form out in as much detail as possible.
This will assist in the assessment of your application.***

Date: _____

Applicant(s) (name: _____

Contact Address: _____

Phone: _____ Fax: _____ Email: _____

Iwi affiliation/Rūnanga/Hāpu/Whānau: *(if any)*

(1) Name of Material(s) requested and quantity required?

Name	Quantity
_____	_____
_____	_____
_____	_____

(2) For what purpose/occasion is material required?

(please describe project in as much detail as possible, including end use
– continue on a separate sheet if necessary).



(3) Who are the artists/people involved in the project? (including any Rūnanga support if relevant)

(4) Is there any form of monetary gain involved in the project? Please tick
Yes No
If yes, explain:

(5) Who/what agency will be the guardian of the completed taonga/project?
(Note this information is important for any permits that may be required)

(6) Is the finished item/taonga likely to leave the country at some point in time?
(Note this information is important for any CITES permits that may be required – see note below)

APPLICATIONS FOR COLLECTION OF PLANT MATERIAL ONLY

(7) On-going collection/use? Yes No **OR** One-off gathering? Yes No
please tick *please tick*

(8) Where and when is the material to be gathered? (*if known*)



(9) Is there a reason why this place/time has been chosen?

(10) Who will collect the material? (*if known*)

(11) Describe the collection process you would intend to use (*if known*)

(12) Do you wish to speak on behalf of this application? *please tick* Yes No

Signature of applicant: _____

Status/Position held (if applicable): _____

Note: If the application is for cultural materials derived from a marine mammal, the Pou Kura Taiao should advise the applicant to include the information required by Section 4 of the Marine Mammals Protection Act 1978.



PLEASE NOTE THE FOLLOWING INFORMATION

- 1) If materials are to be posted, this will be charged back to you.
- 2) The following conditions are likely to apply where relevant:
 - a photograph of the completed project/taonga to be sent on completion
 - the return of surplus materials
 - if gathering materials, a monitoring report on state of the resource
- 3) In the case of taking the material or crafted items out of the country, you are likely to need to hold certain permits. Not holding the required permits may lead to the material or item being seized by customs, either in New Zealand or in the country you are entering. A separate information sheet will be provided outlining the requirements.
- 4) Issues relating to public health and safety, including the risk of infections, may arise from the use of some cultural materials. Precautions should be taken to minimise this risk. People using cultural materials do so at their own risk.

Post your application to one of the Department of Conservation offices as follows:

West Coast Conservancy
Attn: Kara Edwards
Pou Kura Taiao
Private Bag 701
HOKITIKA

Southland Conservancy
Attn: Stephen Bragg
Pou Kura Taiao
PO Box 743
INVERCARGILL

Otago Conservancy
Attn: Matapura Ellison
Pou Kura Taiao
PO Box 5244
DUNEDIN

Canterbury Conservancy
Attn: David Higgins
Pou Kura Taiao
Private Bag 4715
CHRISTCHURCH

Kaikoura Field Centre
Attention: Mike Morrissey
PO Box 32
KAIKOURA



FORM B – Response To Applicants where a permit is not required
(i.e. Ngāi Tahu whānui for Wildlife Act specimens eg feathers)

RESPONSE TO APPLICANTS FOR CULTURAL MATERIALS

Date: _____

Name: _____

Address: _____

Reference No: _____

Representatives of the following Papatipu Rūnanga:

Has: **Approved** **Declined**

Your application for: _____

Reason for decision: _____

Conditions of approval (if any) _____

Materials requested are:

Enclosed

To be arranged to be picked up (*they may be delivered in instalments*).

Materials supplied were: _____

Contact: _____

Phone: _____

Signed for Ngāi Tahu:

Names _____

Important Note: If you are intending to leave the country with the item, you may need a CITES permit and other permits, including from the country you are entering. It is strongly advised you apply for the required permit/s to ensure the item is not seized by Customs, either in New Zealand or the country you are entering. Refer information sheet attached.



FORM C – Response to Applicants where a permit is required

RESPONSE TO APPLICANTS FOR CULTURAL MATERIALS

Date: _____

Name: _____

Address: _____

Reference No: _____

The Department of Conservation in consultation with the following Papatipu Rūnanga:

Has: **Approved** **Declined**

Your application for: _____

Reason for decision: _____

Conditions of approval (if any) _____

Materials requested are: Enclosed

To be arranged to be picked up (they may be delivered in instalment or gathered by the applicants)

Materials supplied were: _____

Contact: _____ Phone: _____

Signed for Department of Conservation:

Name _____

The following permits are attached: _____

Important Note: If you are intending to leave the country with the item, you may need a CITES permit and other permits, including from the country you are entering. It is strongly advised you apply for the required permit/s to ensure the item is not seized by Customs, either in New Zealand or the country you are entering. Refer information sheet attached.



FORM D - letter to applicant

Application for Cultural Materials

Date _____

Tēnā koe _____

Thank you for your application for cultural materials.

Unfortunately the materials you have requested are not currently available within the Canterbury, West Coast, Southland, Otago or Kaikoura areas.

The materials are / are not likely to become available within the next year.

You may want to reapply for the materials within the next _____ months.

Nāku noa, nā

Pou Kura Taiao