

**IN THE HIGH COURTS OF NEW ZEALAND CIV-2017-485-229**  
**WELLINGTON REGISTRY**

**IN THE MATTER OF**

the Marine and Coastal  
Area (Takutai Moana) Act  
2011 (the Act)

**AND IN THE MATTER OF**

an application by

Rachael Ann Selby

for an order recognising  
Customary Marine Title  
and Protected Customary  
Rights.

---

**APPLICATION BY RACHAEL ANN SELBY**

**FOR RECOGNITION ORDERS PURSUANT TO THE MARINE  
AND COASTAL AREA (TAKUTAI MOANA) ACT 2011**

Dated 3<sup>rd</sup> APRIL 2017

---

Case Manager <i>Michael</i>
Next Event: / /
- 3 APR 2017
THE HIGH COURT WELLINGTON

- To:** The Registrar of the High Court at Wellington;
- and to:** Local authorities, Regional and District Councils with statutory functions in the application area;
- and to:** Local authorities (Department of Conservation, Department of Internal Affairs, Environment Protection Agency, MBIE, NZ Petroleum and Minerals) with statutory functions relating to land adjacent to the application area);
- and to:** The Solicitor General on behalf of the Attorney-General.

**This document notifies you that:**

1. Rachael Ann Selby will apply to the High Court for an order pursuant to s98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”) to recognise the customary marine title and protected customary rights of Ngāti Raukawa ki te Tonga.

**Protected Customary Rights**

2. Raukawa ki te Tonga ancestors utilised the common marine and coastal area for:
  - non-commercial fishing, utilising nets, hinaki and hand-lines to catch every fish species in Te Moana o Raukawa including kuaka (snipe), kanae, kahawai, pioke, araara, patiki, tamure, mango, eels and other fish.
  - non-commercial seeding and harvesting of all shellfish (including pipi, cockles, toheroa, tuatua, tuangi, paapaka (crabs) sea clams and all other shellfish present;
  - activities related to spiritual practices (such as rahui);
  - planting and cultivating all plant species in CMCA wet margins (such as flax, tī kouka, pingao);

- gathering edible and aquatic plants;
- extracting non-nationalised and nationalised minerals;
- collecting hāngi stones;
- collecting driftwood and other natural resources;
- temporary and permanent camp-sites for ceremonial activities in the CMCA;
- tauranga waka.

**The Applicant Group:**

3. Ngāti Raukawa whakapapa to Raukawa and Mahinārangī and others. We are Tainui waka. We came to this coastal area in the early 1820s at the invitation of Te Rauparaha. This was as a whakatakataua to avenge the deaths of his children. The Tupuna, Waitohi, was instrumental in persuading Ngāti Raukawa to accept the invitation from Te Rauparaha. Under tikanga, the gift in return was the application area from the Rangitikei River to Kukutauaki. Rachael Ann Selby was appointed to make this application for and on behalf of Raukawa ki te Tonga on 26<sup>th</sup> March 2017 at the 2017 AGM of the Mandated Iwi Organisation (MIO) Raukawa ki te Tonga, at Huia Marae Poroutawhao, Levin.

**Area to which the application relates:**

4. The area to which this application relates is the common marine and coastal area (as defined in s9 of the Act) that is bounded:
  - a. on the landward side by the line of mean high-water springs;
  - b. on the seaward side by the outer limits of the territorial sea;
  - c. on the north side by line that extends from the coast abutting the mouth of the Rangitikei River to the outer limits of the territorial sea; and
  - d. on the southward side by a line that extends from the coast abutting the place known as Kukutauaki to the outer limits of the territorial sea.

5. The area includes the common marine and coastal area identified generally on the map annexed to this Application.

**Grounds on which the protected customary rights order is sought:**

6. The grounds on which this order is sought are that :
  - a. Raukawa ki te Tonga, being a coastal group has relied heavily on snapper, tarakihi, kahawai, patiki, tohemanga, pipi, tuatua, tuna, whitebait, and wetland food stocks gathered by whānau in the estuaries and coastal margins; and
  - b. Raukawa ki te Tonga fishermen and fisherwomen sought the deep water fish such as whales, tuna and other deep water species that were not available around the inner shoreline; and
  - c. Raukawa ki te Tonga also undertakes the following activities in the common marine and coastal area: rongoā collecting, bird snaring, transport, transfer of knowledge of hapū marine culture, trade, communication, seasonal kaimoana exchange, access to gardens on land, tangihanga, social interaction, manaakitanga and ope mara (labour movement).
  - d. Raukawa ki te Tonga has undertaken these activities listed above since 1822 and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.
7. Raukawa ki te Tonga will provide more information once funding for research and legal representation is secured.

**Grounds on which the customary marine title application is made:**

8. The grounds on which this order is sought are that:
  - a. Raukawa ki te Tonga has held the application area in accordance with tikanga since 1822.
  - b. Raukawa ki te Tonga has exclusively used and occupied the application area from 1822. Te Whatanui granted sanctuary to the

Muaūpoko tribe in the area known as Te Whatanui's sanctuary from Uamairangi to Ngā Manu; and in 1873 the Crown granted ownership of the Horowhenua Block to Muaūpoko. However, this grant was not accepted by Ngāti Raukawa except for the protection of Muaūpoko within the boundary of Te Whatanui's sanctuary. The area from the Rangitikei River to Kukutauaki has been used and occupied by Ngāti Raukawa to the present day without substantial interruption.

9. Raukawa ki te Tonga will provide more information once funding for research and legal representation is secured.

**Adjournment:**

10. The Act provides two pathways for the recognition of customary marine title and protected customary rights; namely through:
  - a. A recognition agreement with the responsible Minister on behalf of the Crown made in accordance with section 95 and brought into effect under section 96; and
  - b. an order of the Court made on an application under section 100.
11. In parallel with this application, the Applicant has also filed an application with the responsible Minister on behalf of the Crown to enter into a recognition agreement.
12. On that basis, the Applicant seeks a six (6) month adjournment from the High Court to undertake discussions with the responsible Minister on behalf of the Crown to enter into a recognition agreement. Should the Applicant require a further adjournment following the initial 6 month period to continue discussions with the Crown to reach an agreement, the Applicant will seek the leave of the High Court.

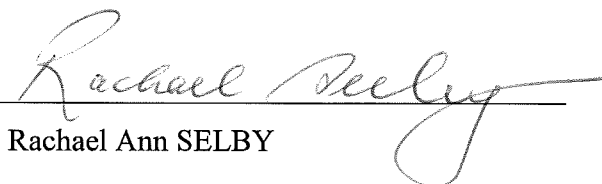
**Contact Details:**

13. The Ngāti Raukawa representative for Raukawa ki te Tonga is:

Rachael Ann SELBY  
Raukawa ki te Tonga Trust  
144 Tasman Road  
OTAKI 5512

14. This application relies on s51(1), s58, s98-113 of the Act and the affidavit of Rupene Morehu Teratiu Waaka.

Dated at WELLINGTON on the 3<sup>rd</sup> day of April 2017



Rachael Ann SELBY

**THIS** application is filed by **RACHAEL ANN SELBY**. The address for service of the Applicant is 144 Tasman Road, Otaki 5512.

Documents for service on the Applicant may be left at that address for service or may be:

- (a) *posted to PO Box 15012, OTAKI 5512; or*
- (b) *emailed to the Applicant at rachaelsselby@gmail.com.*

