



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



Saildrone Washes up at Waratah Bay

Wonthaggi Police were reportedly “stunned as mullets” to discover a strange vessel washed up at Waratah Bay on the evening of April 26.

According to a post on the Victoria Police Facebook page the next day, the barnacle-covered, unmanned boat had “clearly travelled a long way” before arriving at a quiet cove to the west of Wilsons Promontory.

“After a bit of research, it was revealed that the vessel, known as a ‘Saildrone’, is used for ocean mapping and scientific research,” stated the post.

“The California-based company launched three Saildrones from Bluff in New Zealand in 2019 on a mission to sail around Antarctica researching krill numbers using ‘sophisticated’ sounding equipment (expensive fish finders).

“Unfortunately, contact was lost with one of the vessels while it was navigating an ice pack somewhere between Antarctica and Cape Horn in late 2019. It then drifted for 18 months before washing up on this quiet corner of the Victorian coast.

“Sometimes used by the Commonwealth Scientific and Industrial Research Organisation for research in Victorian waters, these vessels weigh 450 kilograms and are seven metres in length. For boat spotters out there – this model has a fixed hard sail, a motor, rudder and keel and is apparently the only one that has ever gone missing.”

Definition of “Vessel”

This Victoria Police Facebook post gave *Semaphore* pause for thought as to what defines a “vessel”.

According to Wikipedia, “marine vessel” is a “craft designed for transportation on water”. The online encyclopaedia classifies marine vessel under the heading of “watercraft”.

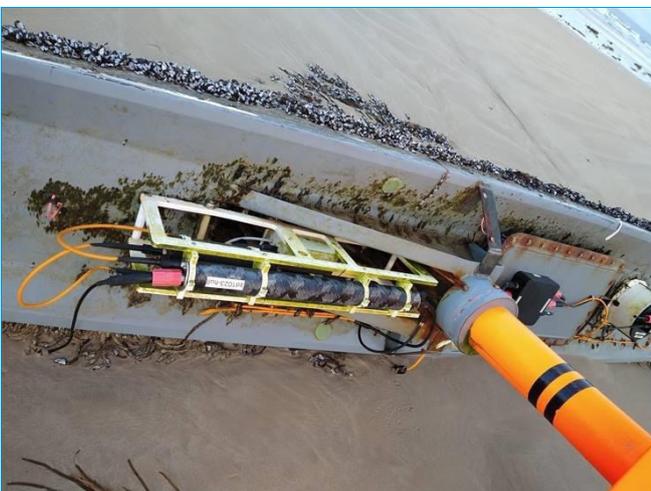
“Watercraft, also known as water vessels or waterborne vessels, are vehicles used in water, including boats, ships, hovercraft and submarines,” it states.

“Watercraft usually have a propulsive capability (whether by sail, oar, paddle or engine) and hence are distinct from a simple device that merely floats, such as a log raft.”

Semaphore also came across this [online post](#) from American law firm, Vedder Price, relating to the January 15, 2013 United States Supreme Court decision in *Lozman v City of Riviera Beach, Fla.* Vedder Price noted the case “examined one of the most fundamental questions in vessel finance – what is a vessel?”

Owen Dixon Chambers West barrister Matthew Harvey QC adds that there have been some “interesting cases” about what is a ship in Australia.

“In *Virtu Fast Ferries Ltd v Cape Leveque* (2015) 232 FCR 22, the Full Court of the Federal Court held that a vessel under construction is not a ‘ship’ under the Admiralty Act 1988 (Cth),” he says.



Photography credit: Victoria Police's Facebook page

“Also, in *Guardian Offshore Au Pty Ltd v Seaeye Leopard 1702* [2020] FCA 273, Colvin J held that a remotely-operated vehicle used for underwater exploration was not a ‘ship’ under the same Act.”

For further analysis of law as to the meaning of “ship”, readers are also directed to Mr Harvey’s *Arresting a “ship”: Boats, bunkers and barometers* (2012) 86 ALJ 189.

A previous MLAANZ submission to the Comité Maritime International (CMI) on related topics can be found [here](#).

June 2021