

## Strata Plan SP52948

1-15 Fontenoy Road, Macquarie Park, NSW 2113

Updated in March 2019

Photo evidence of using Ryde Council land for car parking without owners

corporation knowledge or Ryde Council approval

Unnamed Park

Lot 202 DP848752

440 Lane Cove Road

Classified as Public Recreation Space

Ryde Council Reference 2158948 on 4<sup>th</sup> January 2019

### Zone RE1 Public Recreation

- 1 Objectives of zone
    - To enable land to be used for public open space or recreational purposes.
    - To provide a range of recreational settings and activities and compatible land uses.
    - To protect and enhance the natural environment for recreational purposes.
  - 2 Permitted without consent
    - Environmental protection works.
  - 3 Permitted with consent
    - Business identification signs; Community facilities; Environmental facilities; Kiosks; Recreation areas.
    - Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants or cafes; Roads.
  - 4 Prohibited
    - Any development not specified in item 2 or 3.
- 
- Ryde Local Environmental Plan 2014 (Ryde LEP 2014) was notified on the NSW Legislation Website on the 12<sup>th</sup> of September 2014 and came into force on that date.
  - Ryde Local Environmental Plan 2014 applies to all land identified on the Ryde LEP 2014 Land Application Map.
  - Illegal parking includes vehicles parked contrary to parking regulation signage, or parking on council land (including the footpath and driveway crossovers).
  - Council is responsible for enforcement of parking regulations within the Local Government Area.
  - Rangers patrol on-street locations in CBDs and road reserve areas as well as Council and various shopping centre car parks.
  - Parking enforcement is necessary to ensure safe and convenient parking and encourage the adequate rotation of parking spaces for all users.
  - Police are also authorized to enforce parking regulations.
  - Council issue penalty notices to vehicles which are illegally parked. Illegal parking includes vehicles parked contrary to parking regulation signage, or parking on council land (including the footpath and driveway crossovers). These penalties are issued under the provisions of the NSW Road Rules 2014.

By providing illegal thoroughfare to the council land, Waratah Strata Management and Uniqueco property services create additional risks: discrimination against people who live outside the complex (because they are not allowed to use public land in the same manner) and noise from parking in the evenings and early mornings.

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 • Use of visitor parking spaces and Council parkland - It is noted that the owners of Lot 158 have lodged multiple complaints with Council about residents use of the Council parkland at the rear of the property for parking. As a result of those complaints Council are now preventing residents from using that area for parking. It is also noted that the Owners Corporation will no longer be permitted to maintain that parkland and that Council will only mow the area every 2 - 3 months, so the area is likely to become overgrown and attract mice, rats, snakes and other vermin.  
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RYDE TRAFFIC COMMITTEE MEETING OF COUNCIL 08/09  
held on  
Thursday, 26 November 2009

**GENERAL BUSINESS**

**MIN NO. 240 (1) FONTENOY ROAD & TUCKWELL PLACE, MACQUARIE PARK  
(INTERIM REPORT) – Request for Resident Parking Scheme  
within Zone 5.**

Report

Parking Utilisation Survey Data was tabled at the time of the meeting, which indicated a 3-day average parking utilisation of 70% in Fontenoy Road and a 3-day average parking utilisation of 77% in Tuckwell Place.

It was recommended:

- (a) That Council notes the information contained in the report.
- (b) That Council does not accede to the request to create a Resident Parking Scheme in Fontenoy Road and Tuckwell Place, Macquarie Park based on the parking utilisation rate currently being less than 80%
- (c) That the residents be advised of Council's decision.



SP52948 Executive Committee and BCS Strata Management attempted to persuade Ryde Council to use public land for parking at EC meeting on 20<sup>th</sup> of July 2011

**ITEM 12:**

Report on use of additional land for car parking.

Recent verbal advice from Ryde Council is that the area under consideration is designated as an "Area of public recreation". However, the land can only be accessed through land belonging to the Owners Corporation. Further inquiries are proceeding with council. No expenditure has been incurred to date in regards to this matter.

Response from Ryde Council after inquiry about approval to use public land for parking in SP52948 on 26<sup>th</sup> of June 2015

This information was deliberately not disclosed to owners corporation by BCS Strata Management and Uniqueco Property Services (Building Manager), in spite of duty of care to do it

Your note to Council has been forwarded to me to address the issue you raise in regards to use of public land adjoining Strata SP52948. I note the issues you raise and have undertaken an inspection of the area. I can confirm there has been no Council approval provided for access the land you refer to in your e-mail. Following this I will write a letter to the Strata seeking clarification on their intentions for any ongoing use of the land (unnamed park). When I receive a response I will proceed as necessary.

Response from Ryde Council after inquiry about approval to use public land for parking in SP52948 on 6<sup>th</sup> of December 2018

I believe we have corresponded previously on this matter. Apologies for my delayed response to your most recent emails in September and November.

Council's position remains as per my previous correspondence, Council has not re-categorised or rezoned the land to allow it's use for parking, and I am not aware of any application to rezone or re-categorise the land in question.

**Motion: Illegal usage of city council land for parking**

The Owners Corporation SP52948 by **ORDINARY RESOLUTION**, confirms the following:

- **BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion,**
- **Without approval at any EC or general meeting, Building Manager Uniqueco Pty Ltd opened gates towards M2 city council land and allowed parking for two years,**
- **BCS Strata Management, EC members, and Building Manager ignored request for proof of decision to use council land,**
- **Because of this Motion at AGM 2016, and Lot 158 report to Ryde Council, Building Manager Mr. Steve Carbone quietly closed the gate towards council land,**
- **Capacity of parking in SP52948 as collected in undisclosed report by unfinancial EC member Mr. Moses Levitt to Waratah Strata Management in 2017:**

Garage bays in the basement of four buildings:	260
Townhouse garage bays:	26
Townhouse pergola bays:	26
Unit garages used as storage (against the by-laws):	13
Townhouse garages converted:	21
Common property parking bays:	38
Visitors parking bays:	12

Many other locations throughout Sydney are much worse.

- **Every owner, when they purchase the property is fully aware of the allocation of their car park allocations.**
- **Because there is only one gate (wide enough for a single car only) it means of ingress and egress and means of movement provided or to be provided within this "car park" are certainly not satisfactory without additional costs (our complex has some huge projects PENDING to resolve leakage problems, elevator upgrades).**
- **Lot 158 asked if Building Manager (and his security officers in night shift) would want to be liable for any claims of damage. They declined. In means owners corporation would have to pay for additional risks and premiums.**
- **This gate is currently not monitored or managed at any time. There are no security cameras, and the "backdoor" increases risk of intruder attacks. There is only one more slot for additional camera in the current monitoring system and upgrade of the ageing system would have to come at owners' expense.**
- **The lighting in the evening is insufficient and would also require additional pole and installation costs.**
- **Due to high costs of belated maintenance issues, our funds will be severely depleted in the next two years and owners do not want special levies.**
- **Since there is already plenty of free space to park cars along the Fontenoy Road, there is no valid reason for any person to abuse public property.**
- **Internal design of parking facilities and system of traffic management are satisfactory within the complex. Owners bought their properties with clear understanding how many car spaces they get in their own garages.**
- **The strip of land for proposed "car park" does not have adequate provision for the management of storm water and the minimization of stormwater pollution.**
- **It is not defined who and how would manage the maximum number of cars to be accommodated in this public space.**
- **The complex has more than 26,000 square meters of land and there are other possibilities to add extra car spaces if deemed so necessary.**

Explanatory notes for owners:

It all started through covert plan to acquire public land towards M2 Motorway in 2011, which the Executive Committee and BCS Strata Management tried to push without general meeting by using illegally-approved Special By-Law at Annual General Meeting 2007:

14 owners present in person and 41 via proxy on 17<sup>th</sup> of October 2007.

**Outcome: BCS Strata Management failed to declare the meeting invalid due to lack of quorum. Of 41 proxies, 31 were given to Chairperson, who, along with a selective group of 16 (out of 26) townhouse owners (including one other member of the Executive Committee) received reimbursements for personal water and gas usage without Special Resolution or registered By-Law, hence directly decreasing their voting entitlements and being unfinancial. These secret and undeclared reimbursements were never provided in accounting books even as late as January 2015. Three proxy votes were given to Strata Manager himself, who voted for his own increased remuneration at the meeting. Meeting was non-compliant with SSMA 1996 Schedule 2 Section 12 2 (a) and (b), SSMA 1996 Schedule 2 Section 10 (8), SSMA 1996 Schedule 2 Section 11 (7A) and (7B), and SSMA 1996 Section 183.**

The Special By-Laws was, hence, illegally registered with the Land and Property NSW:

#### **Special By-Law 8**

The Executive Committee of the Owners Corporation are hereby granted the power and authority to approve the acquisition of additional Common Property and the appropriate expenditure from the Sinking Fund providing that the amount of such expenditure shall not exceed 10% of the Sinking Fund balance at that time.

There was an attempt to exclude owners corporation and add common property without general meeting (additional land facing M2 Motorway for "extended carpark space"), an attempt to add walk path to Lane Cove Road, which was defeated at the AGM 2012), and two other attempts currently being "pursued" by the EC and BCS Strata Management:

- To add common property for two townhouses, as documented in minutes of EC meeting held on 4th of March 2015:

#### **5. COURTYARD DRAINAGE:**

##### Motion

5.1 To consider the issue of drainage, that has been raised in relation to a number of townhouse courtyards.

The EC instructed the managing agent to write to the two lot owners and offer the affected lots access to connect drains from courtyards to the common storm water drain at their own expense. These drains will then become common property and will be maintained by the Owners Corporation going forward. No additional expense is expected as the storm water drains are already regularly maintained by the Owners Corporation. The acquisition of this Common Property is considered minor and falls within the previous authority granted to the EC at AGMs in the past.

City of Ryde rejected the request for acquisition of public property because it was registered as recreational land, as confirmed in minutes of EC meeting held on 20<sup>th</sup> of July 2011.

#### **ITEM 12:**

Report on use of additional land for car parking.

Recent verbal advice from Ryde Council is that the area under consideration is designated as an "Area of public recreation". However, the land can only be accessed through land belonging to the Owners Corporation. Further inquiries are proceeding with council. No expenditure has been incurred to date in regards to this matter.

**As a side note, all General Meetings in last 20 years are illegal due to lack of quorum and other non-compliances with SSMA 1996 and SSMA 2015.**

This decision to install new gate towards M2 was solely made by two people (a single member of the Executive Committee and Director of Uniqueco Property Services building manager), who both knew very well the consequences of this one-sided action:

In discussion with \_\_\_\_\_, it has been noted that there is insufficient car spaces around the complex to support the amount of cars owned by Owners / Tenants. It was decided that the gates be opened – Car wash M2 area to allow cars to park there.

In early 2014, the new gate between the council land and the complex was silently installed at undisclosed and unapproved cost (owners never learned about real expenses and needs for it):

TAX INVOICE		20 January 2014
T/as / H&F West ABN / 30 413 213 905		
INVOICE NUMBER / 1083		
TO / OWNERS OF SP 52948 MACQUARIE GDNS, 1- 15 FONTENOY RD, NTH RYDE		
C / RAINE AND HORNE STRATA		
ATTENTION / PETER BONE		
Supply and install new powder coated gates adjacent to car wash bay as approved by Executive Committee		
* Remove existing gate and fence section		
* Install new gates, concreted into ground, similar style to existing		
* Remove rubbish on completion		
Total cost for labour and materials	\$ 3760.00	
10 % GST	\$ 376.00	
<b>TOTAL COST THIS QUOTATION INCLUDING GST</b>	<b>\$ 4136.00</b>	

Since April 2015, these gates were opened permanently, without being monitored, or owners notified until an owner forced it to be shut down in mid-2016.

Ryde Council was notified and they were appalled that nobody asked them for permission. In addition, they visited the site and in email confirmed that they would take action.

Reasons why the use of public land was not appropriate was emailed to the Caretaker and City of Ryde, who surely shared it with the EC members and BCS. City of Ryde responded with investigation about it.

Letter from a concerned owner:

BEGIN QUOTE

***Back in October 2014 I complained about serious Fire Safety issues in the complex at Macquarie Park. Since then, strata manager (Raine & Horne Strata Sydney BCS) and the Executive Committee silently spent over \$25,000.00 on fixing the problems. That is good for everybody's sake. I also note that your representative visited the buildings recently.***

*There are number of other OH&S issues in the complex, but that is another story.*

*I have two more problems to report that concern me and other owners:*

*a) As of April 2015, the gate between M2 land strip and the complex was opened under alleged wish to help owners obtain access to extra car spaces.*

*In 2011, without any consultation with owners corporation or real needs, strata manager and the EC attempted to purchase the land between our complex and M2 motorway.*

*The response from your Council was correct (see attachment).*

*All of a sudden, the gate between the complex and that strip of land is kept opened 24 hours day.*

*At this stage, this decision was solely made by Chairperson of the EC member and Caretaker Mr. Steve Carbone, without any consultation with owners corporation. There are so many more important issues in the complex...*

*Nobody in the complex is even aware of this car park.*

*And here are the concerns:*

*1. Did City of Ryde approve such usage of public land to SP52948 at Fontenoy Road recently?*

*2. Because there is only one gate (wide enough for a single car only) means of ingress and egress and means of movement provided or to be provided within this "car park" are certainly not satisfactory without additional costs (our complex has some huge projects PENDING to resolve roof leakage problems, elevator upgrades and building painting and we do not have enough money for them).*

*In case of accidents, who will be guilty? Will Ryde Council take responsibility for issues on public property?*

*3. This gate is currently not monitored or managed at any time.*

*There are no security cameras, and the "backdoor" increases risk of intruder attacks.*

*The lighting in the evening is insufficient (as my photos show).*

*4. Since there is already plenty of free space to park cars along the Fontenoy Road, why would owners abuse public property for little benefit.*

*5. Internal design of parking facilities and system of traffic management are satisfactory within the complex. Owners bought their properties with clear understanding how many car spaces they get in their own garages.*

*6. The strip of land for proposed "car park" does not have adequate provision for the management of storm water and the minimization of stormwater pollution.*

*7. Who and how will manage the maximum number of cars to be accommodated in this public space?*

*8. The complex has more than 26,000 square meters of land and there are other possibilities to add extra car spaces if deemed so necessary.*

*9. Parking cars in public land in the strip between M2 and the complex diminishes privacy of owners in the buildings because they would be exposed to additional unrestricted viewing. None of the owners would like it.*

*10. There is nothing to stop any other driver to drive through the complex and use this property.*

*b) In March 2015 and May 2015, large branches fell on public land in Fontenoy Road:*

*<http://www.nswstratasleuth.id.au/Macquarie-Gardens-photos/gallery/index.php?/category/9>*

*<http://www.nswstratasleuth.id.au/Macquarie-Gardens-photos/gallery/index.php?/category/13>*

*In both cases, pedestrians and cars pass along this road all the time. It is a miracle that nobody got injured.*

*My question: who will be guilty if somebody gets hurt or even more serious incident happens. Number of trees in the complex require good pruning or replacement, but the actions are slow.*

*In the 2004 case of BCS Strata Management vs Robinson (another strata complex), the strata manager attempted to defend their actions by claiming protection under indemnity. The facts of the case are as follows:*

Mrs. Robinson had injured herself in a lift,  
The floor of the lift did not settle level with the floor of the building. It dropped down some 18cm,  
When Mrs. Robinson stepped into the lift, she fell and injured her leg,  
Mrs. Robinson sued the Owners Corporation and BCS Strata Management,  
Mrs. Robinson won her case in the lower court and it was appealed in the Supreme Court,  
Mrs. Robinson claimed that the Owners Corporation and the Strata Manager had breached  
their duty under section 62 of the Strata Schemes Management Act 1996,  
The Owners Corporation and BCS cross claimed against each other. One of the claims by BCS  
was that they were indemnified under their managing agent's agreement.

<https://www.nswstratasleuth.id.au/BCS-Strata-Management-v-Robinson-NSW-Court-of-Appeal-2004.pdf>  
END QUOTE

A few photos of the illegal usage of public land and unmonitored backyard gate at night:





**Motion: Illegal usage of city council land for parking with high insurance risks and attempts to reuse again**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Without approval at any EC or general meeting, Building Manager Uniqueco Property Services opened gates towards M2 city council land and allowed parking for two years in 2015.
- BCS Strata Management, EC members, and Uniqueco ignored request for proof of decision to use council land. Because of Lot 158 efforts, Uniqueco quietly closed the gate towards council land.
- SP52948 even attempted to purchase this land from the Ryde City Council, without approval by the owners corporation in 2011. Ryde Council rejected it at the time.
- The following capacity of parking in SP52948 (complex with 218 properties: 192 units in four buildings and 26 townhouses) is undisclosed to owners:

Garage bays in the basement of four buildings:	260
Townhouse garage bays:	26
Townhouse pergola bays:	26
Unit garages used as storage (against the by-laws):	13
Townhouse garages converted:	21
Common property parking bays:	38
Visitors parking bays:	12

- Every owner, when they purchase the property is fully aware of the allocation of their car park allocations.
- A single member of the EC, Mr. Moses Levitt, has been persistently trying to force Ryde City Council to rezone public land behind the complex towards without owners corporation knowledge or full discussions. Each time, the Council rejected it and secretary of the EC failed to inform the owners.
- In Lot 158 submissions to Ryde City Council (last one in September 2018), the following reasons for objections to rezone the land were provided four times:

Owners in SP52948 were not asked about rezoning of the public land in this area.

Because there is only one gate (wide enough for a single car only), means of ingress and egress and means of movement provided or to be provided within this "car park" are certainly not satisfactory without additional costs (complex has some huge projects pending to resolve roof leakage problems, elevator upgrades, window cleaning, and the budget will be tight).

In case of accidents, the issue of insurance and responsibilities? Will Ryde Council take responsibility for issues on public property?

Uniqueco was asked if they would be liable for any claims of damage. They declined to respond. Why should owners corporation pay for additional risks and premiums?

This gate is currently not monitored or managed at any time. There are no security cameras, and the "backdoor" increases risk of intruder attacks.

The lighting in the evening is insufficient. This is further complicated by the fact (video evidence exists), that Waratah Strata Management and Uniqueco Building Manager for many months deliberately kept areas towards M2 motorway and part of townhouses in complete darkness for part of the night, causing security risks and potential for incidents.

Extra cameras are additional costs, at the time, when our 14-camera system is already beyond the use-date.

Due to high costs of belated maintenance issues, SP52948 funds will be severely depleted in the next two years and owners do not want special levies.

There is already lot of free space to park cars along the Fontenoy Road.

Internal design of parking facilities and system of traffic management are satisfactory within the complex. Owners bought their properties with clear understanding how many car spaces they get in their own garages.

The strip of land for proposed "car park" does not have adequate provision for the management of storm water and the minimization of stormwater pollution.

There is no indication who and how will manage the maximum number of cars to be accommodated in this public space.

The complex has more than 26,000 square meters of land and there are other possibilities to add extra car spaces if deemed so necessary.

Parking cars in public land in the strip between M2 and the complex diminishes privacy of owners in the buildings because they would be exposed to additional unrestricted viewing and night noise. None of the owners would like it.

There is nothing to stop any other driver to drive through the complex and use this public land without even being owners or tenants in this location. They are already doing it during the day when number of them come, park their car, and then take public transport to their workplace or walk away to other destinations.

Quite a number of garages are used for storage which is a personal decision, as such owners have enough space to park their cars if the used the garages in a designed manner.

Walk through basement reveals that there are number of garages which are empty or not used.

- Owners corporation orders Secretary of the EC to not make any action, issue any request, or make any decision in regards to rezoning the public land without full disclosure and vote at the general meeting.

If gate towards M2 is reopened, owners corporation shall not be liable for any accidental or deliberate damage to property caused by vehicle movement on council land.

Building Manager shall be responsible for any issues arising from usage of council land.

Uniqueco Property Services (Building Manager for SP52948) first time opened gates towards M2 motorway council land in April 2015, without notification to owners corporation or decision made at any valid Executive Committee or Annual General Meeting

Evidence of four healthy trees on public land on 21<sup>st</sup> of May 2015, of which one was suddenly, without alleged approval by Ryde Council or owners corporation at any legally convened meeting , removed on or around 14<sup>th</sup> of December 2018. Ryde Council was notified by Lot 158 on 24<sup>th</sup> of May 2015

Over the next two years, another tree was permanently removed by Uniqueco Property Services staff, without apparent approval of the Ryde Council



Uniqeco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 1<sup>st</sup> of July 2015



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 8<sup>th</sup> of June 2015

Four healthy trees are clearly visible towards M2 motorway noise barrier



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 26<sup>th</sup> of June 2015



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 11<sup>th</sup> of July 2015

Four healthy trees are clearly visible towards M2 motorway noise barrier



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 27<sup>th</sup> of August 2015

One of the trees planted on public land is clearly visible behind the van





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 3<sup>rd</sup> of October 2015



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 27<sup>th</sup> of November 2015

Of importance is to note four trees on council property, towards M2 motorway noise barrier (left-hand side of the picture)

One of them was permanently removed by Uniqueco Property Services staff over the next two years and the other one will be relocated to near gate opening in December 2018



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 3<sup>rd</sup> of January 2016

As one of the Executive Committee members was preparing to sell the property and leave the complex, the biggest supporter of the public land abuse stopped supporting Uniqueco Property Services, so the car parking suddenly stopped for two and a half years soon afterwards (until late October 2018)



Uniquenco Property Services, two and a half years since previous attempt, again opened gate towards council land M2 motorway noise barrier on 29<sup>th</sup> of October 2018



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 8<sup>th</sup> of November 2018



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 20<sup>th</sup> of November 2018

The car did not move for 12 days (until 2<sup>nd</sup> of December 2018)

Uniqueco Property Services security guard could not explain why the car was there and who it belonged to



Damaged grass and soil on council land due to car parking on 20<sup>th</sup> of November 2018



Uniqeco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 21<sup>st</sup> of November 2018





Uniquenco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 23<sup>rd</sup> of November 2018



Uniquenco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 24<sup>th</sup> of November 2018



Uniquenco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 27<sup>th</sup> of November 2018

Trees on public land behind the car towards the M2 noise barrier are clearly visible





2018-11-27 17:45:59

Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 28<sup>th</sup> of November 2018











Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 29<sup>th</sup> of November 2018



Uniquenco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 1<sup>st</sup> of December 2018





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 2<sup>nd</sup> of December 2018



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 9<sup>th</sup> of December 2018

Note the tree in front of the car



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 10<sup>th</sup> of December 2018



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 15<sup>th</sup> of December 2018

Tree in front of the white car towards the M2 motorway noise barrier was suddenly relocated to near the gate opening



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 17<sup>th</sup> of December 2018







Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 19<sup>th</sup> of December 2018







Lot 158 inquiry to Uniqueco Property Services and Waratah Strata Management asking who allowed unauthorised parking on council land towards M2 motorway noise barrier on 20<sup>th</sup> of December 2018

Email sent to Uniqueco Property Services and Waratah Strata Management on 20<sup>th</sup> of December 2018. No reply was received, or any action taken to prevent thoroughfare to council land from SP52948 property.

**Subject: REQUEST FOR INFORMATION: SP52948 Illegal use of Ryde Council land for public parking on 20Dec2018**

Just a week ago, Ryde Council confirmed to me in oral and written form that such approval was allegedly not provided to SP52948 or any representative of the complex.

Such use of public land increases risk of litigation, council penalties, insurance claims, noise, damage to public land and top cover of the soil, and security risks (stolen cars, abandoned cars - some of the cars are left there for two weeks at a time, cars from non-owners or tenants in the complex). That affects Lot 158 personally.

I enclose photos proving that over the last three years two of the four trees on council land towards M2 noise barrier were removed (one of them was removed permanently and the other relocated on or around 15 December 2018 - just couple of days ago). They were completely healthy trees and did not need to be removed or relocated.

Would you please provide the following information, via Australia Post letter:

a) Who, and at which SSMA 2015 legally convened EC meeting, approved use of council land for parking?

b) Why did Waratah Strata Management not know who was parked on council land when I asked?

c) When were owners and tenants publicly notified about use of council land for parking (via email, letters, and on ALL notice boards in the complex)?

d) Copy of the Ryde Council approval to use public land for parking.

I emphasise that no decision or approval at any EC meeting in our complex approved such blatant abuse of public land and that no owner received public notice about it.

Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 22<sup>nd</sup> of December 2018







2018-12-22 10:44:57



Uniquenco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 23<sup>rd</sup> of December 2018





Uniquenco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 25<sup>th</sup> of December 2018





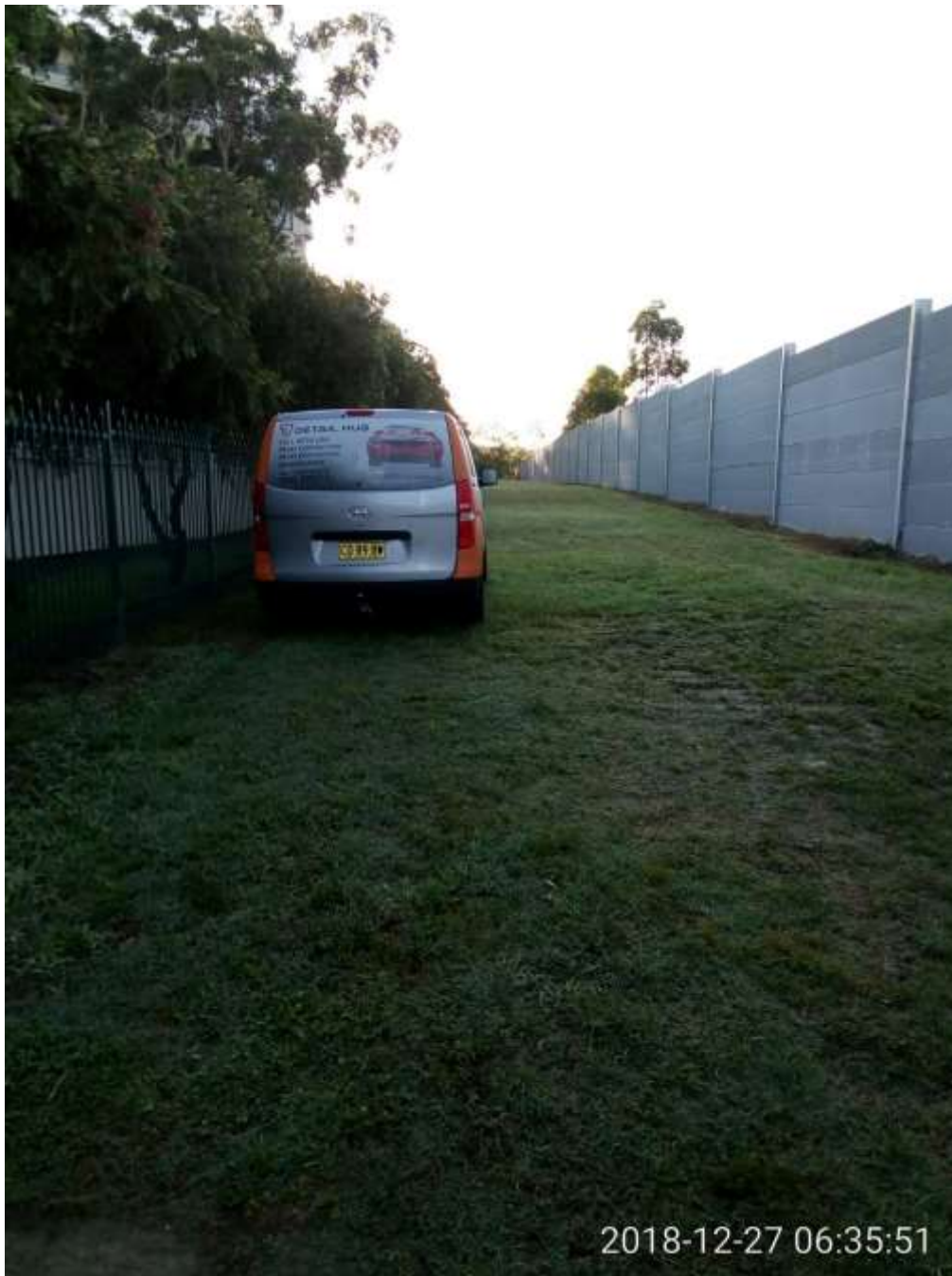


2018-12-25 18:03:36

Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 27<sup>th</sup> of December 2018









Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 29<sup>th</sup> of December 2018





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 31<sup>st</sup> of December 2018





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 4<sup>th</sup> of January 2019













Uniquenco Property Services not cleaning rubbish on council land caused by their unauthorised support for parking on council land towards M2 motorway noise barrier on 4<sup>th</sup> of January 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 5<sup>th</sup> of January 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 6<sup>th</sup> of January 2019

Evidence of longer-term parking – grass uncut around and below the car:

















2019-01-06 06:57:42



2019-01-06 06:58:21

Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 8<sup>th</sup> of January 2019







Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 10<sup>th</sup> of January 2019









2019-01-10 18:51:50



2019-01-10 18:51:42





2019-01-10 18:50:48



2019-01-10 18:50:26



2019-01-10 18:50:02



Uniqueco Property Services not cleaning rubbish on council land caused by their unauthorised support for parking on council land towards M2 motorway noise barrier on 10<sup>th</sup> of January 2019





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 13<sup>th</sup> of January 2019





2019-01-13 07:08:40

Member of SP52948 Executive Committee using unauthorised parking on council land towards M2 motorway noise barrier on 13<sup>th</sup> of January 2019





2019-01-13 07:08:40

Uniquenco Property Services not cleaning rubbish on council land caused by their unauthorised support for parking on council land towards M2 motorway noise barrier on 13<sup>th</sup> of January 2019





2019-01-13 07:09:27

Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 14<sup>th</sup> of January 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 16<sup>th</sup> of January 2019

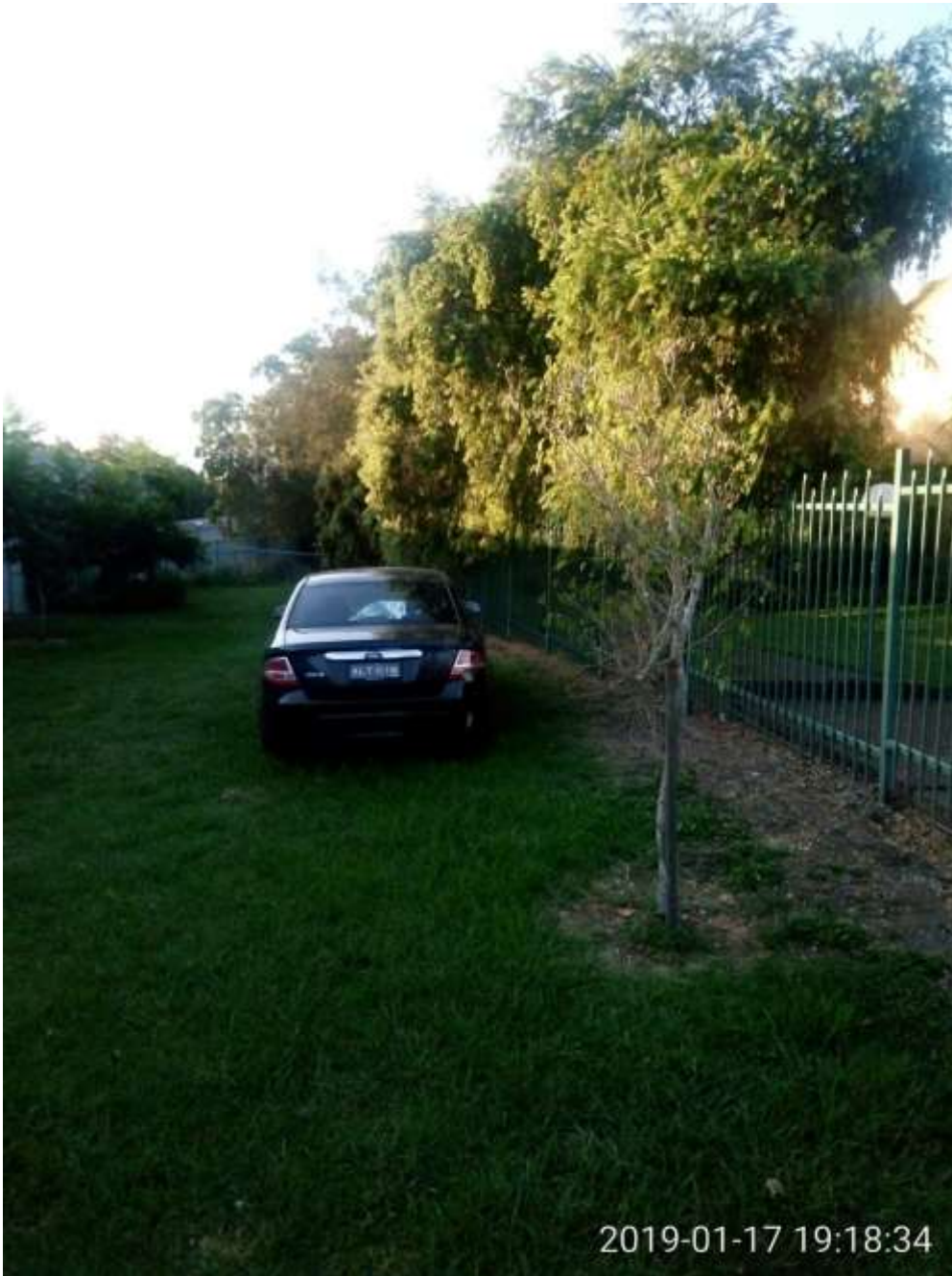








Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 17<sup>th</sup> of January 2019





Car with licence plate ALT-01M parked for four weeks on council land on 17<sup>th</sup> of January 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 19<sup>th</sup> of January 2019





Car with licence plate ALT-01M parked for four weeks on council land on 19<sup>th</sup> of January 2019





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 21<sup>th</sup> of January 2019





2019-01-21 19:47:45

Car with licence plate ALT-01M parked for four weeks on council land on 21<sup>th</sup> of January 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 23<sup>rd</sup> of January 2019



Original position of relocated tree on council land towards M2 motorway noise barrier without Ryde Council approval on 23<sup>rd</sup> of January 2019

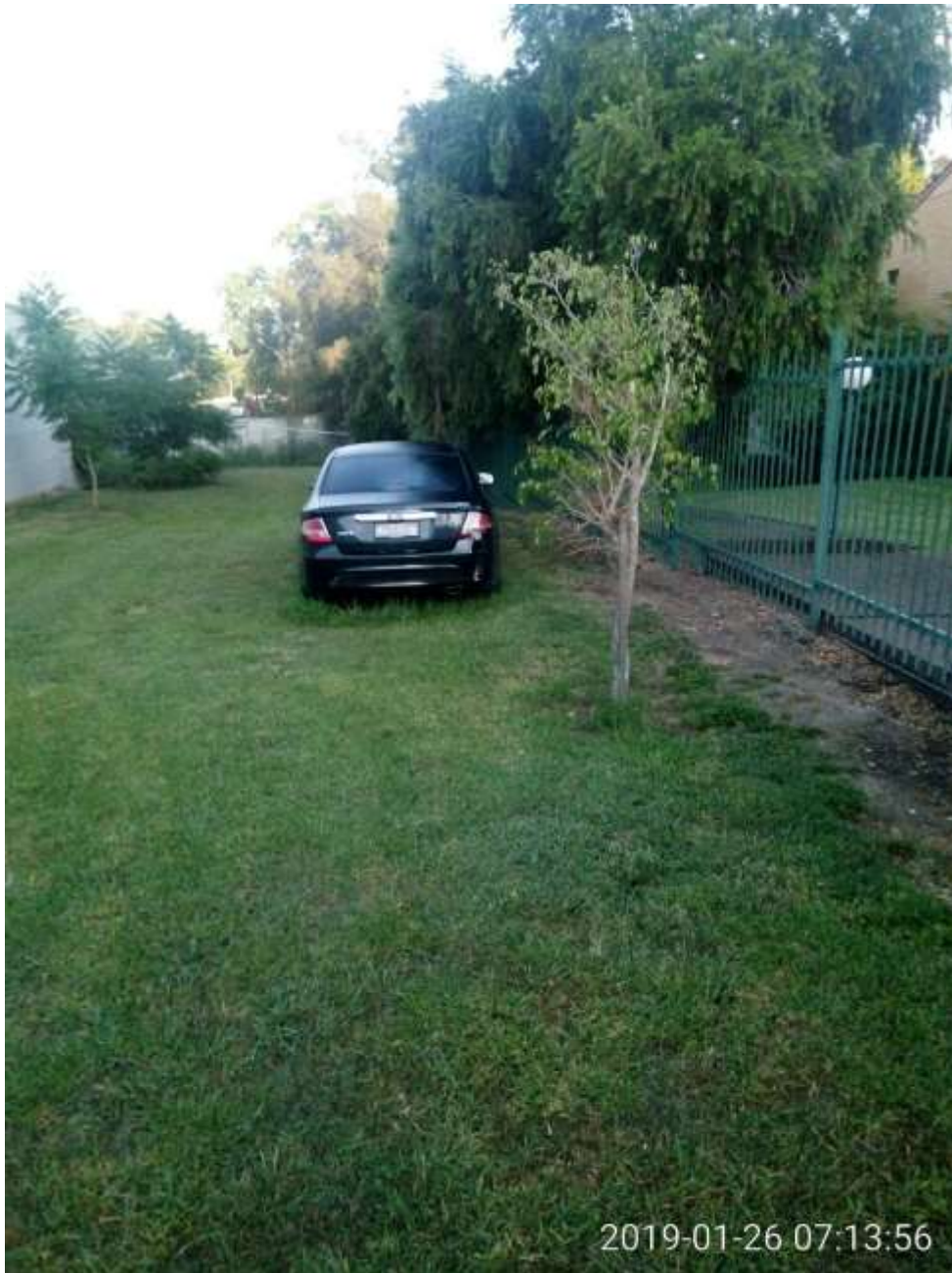


Uniqeco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 26<sup>th</sup> of January 2019





Car with licence plate ALT-01M parked for five weeks on council land on 26<sup>th</sup> of January 2019





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 27<sup>th</sup> of January 2019







Car with licence plate ALT-01M parked for more than five weeks on council land on 27<sup>th</sup> of January 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 30<sup>th</sup> of January 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 31<sup>st</sup> of January 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 1<sup>st</sup> of February 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier with evidence of long-term parking and top-soil damage on 3<sup>rd</sup> of February 2019





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier with evidence of long-term parking and top-soil damage on 5<sup>th</sup> of February 2019





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier with evidence of long-term parking and top-soil damage on 6<sup>th</sup> of February 2019







Uniquenco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 9<sup>th</sup> of February 2019





2019-02-09 06:56:52

One of many complaints to Waratah Strata management and Uniqueco Property Services about unauthorised parking on council land towards M2 motorway noise barrier on 10<sup>th</sup> of February 2019

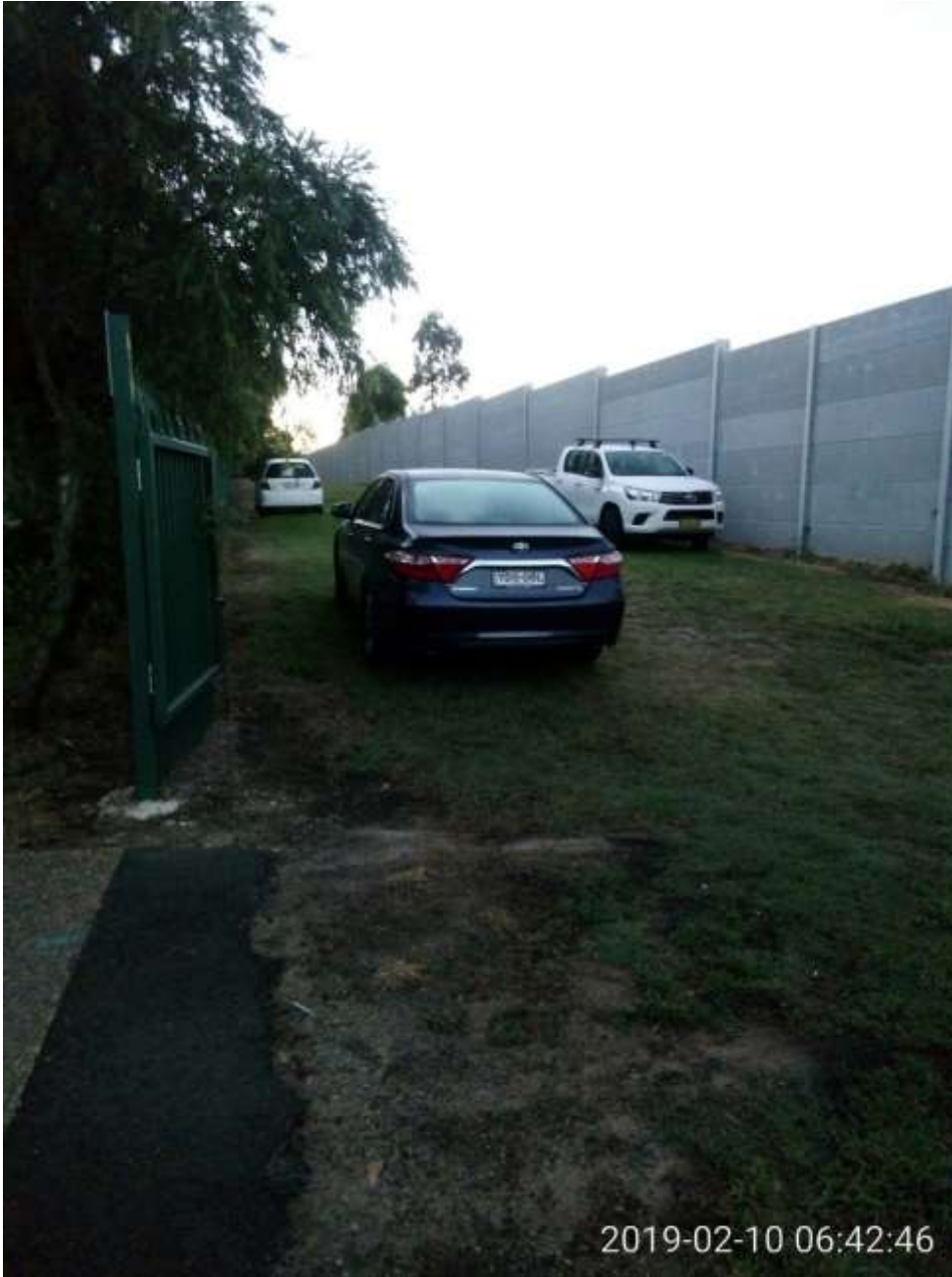
**Waratah Strata Management and Uniqueco property Services never responded or provided evidence of corrective actions to prevent illegal usage of council land:**

e) Finally, a complaint on behalf of several owners about noise coming from cars illegally using unnamed park, Lot 202 DP848752, 440 Lane Cove Road, classified as Public Recreation Space, for parking at night. Lot 158 reported it to Waratah Strata Management in email with subject "REQUEST FOR INFORMATION: SP52948 Illegal use of Ryde Council land for public parking on 20Dec2018". Waratah Strata Management and Uniqueco Property Services facilitate such illegal use of council land (case with City of Ryde has been opened). The attachment shows illegally parked cars overnight.

Smoking: Staff of Uniqueco Property Services fail to maintain the complex in clean order regularly. Photos of ashtrays are some of the examples of neglect.

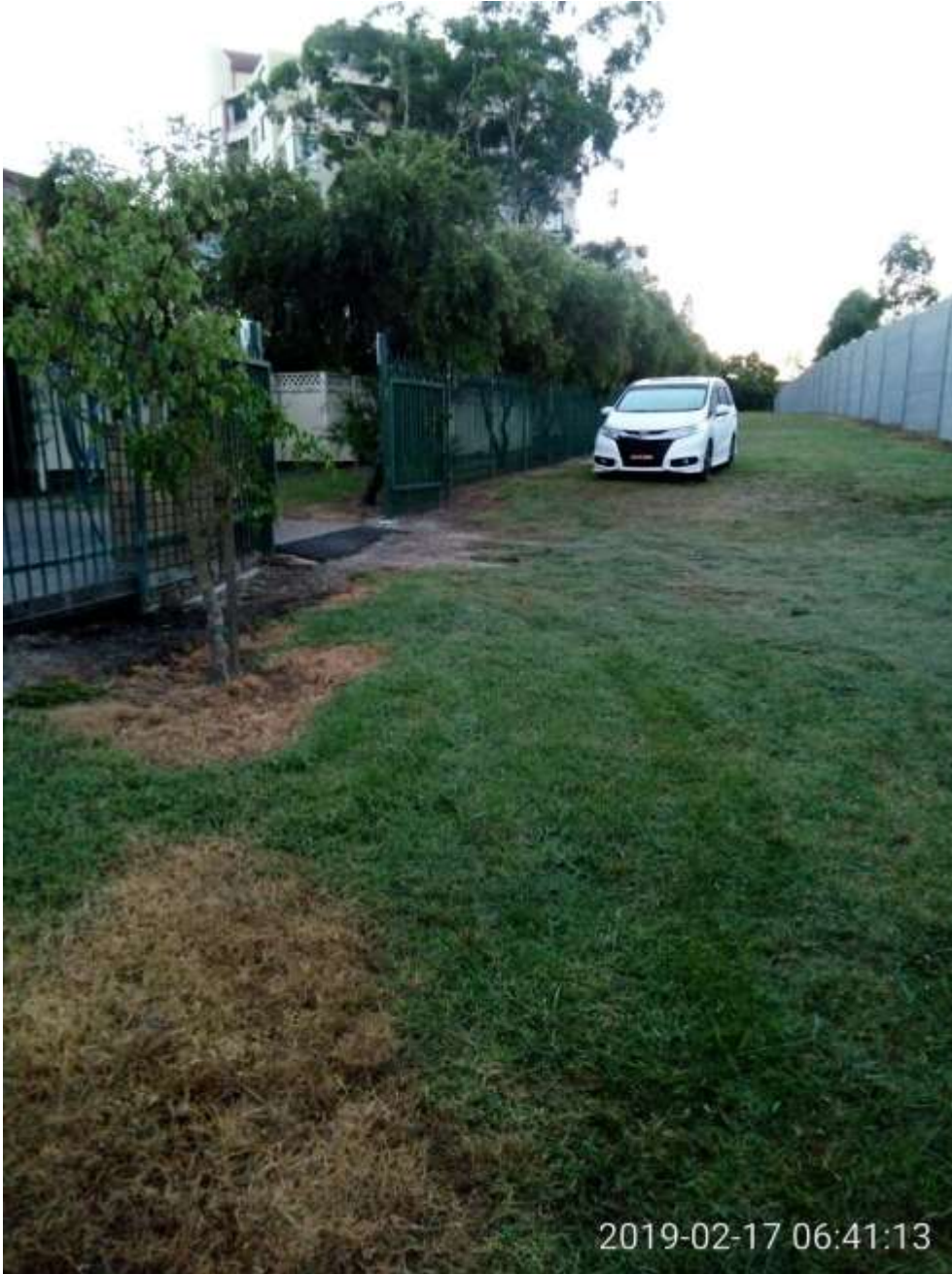


Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 10<sup>th</sup> of February 2019

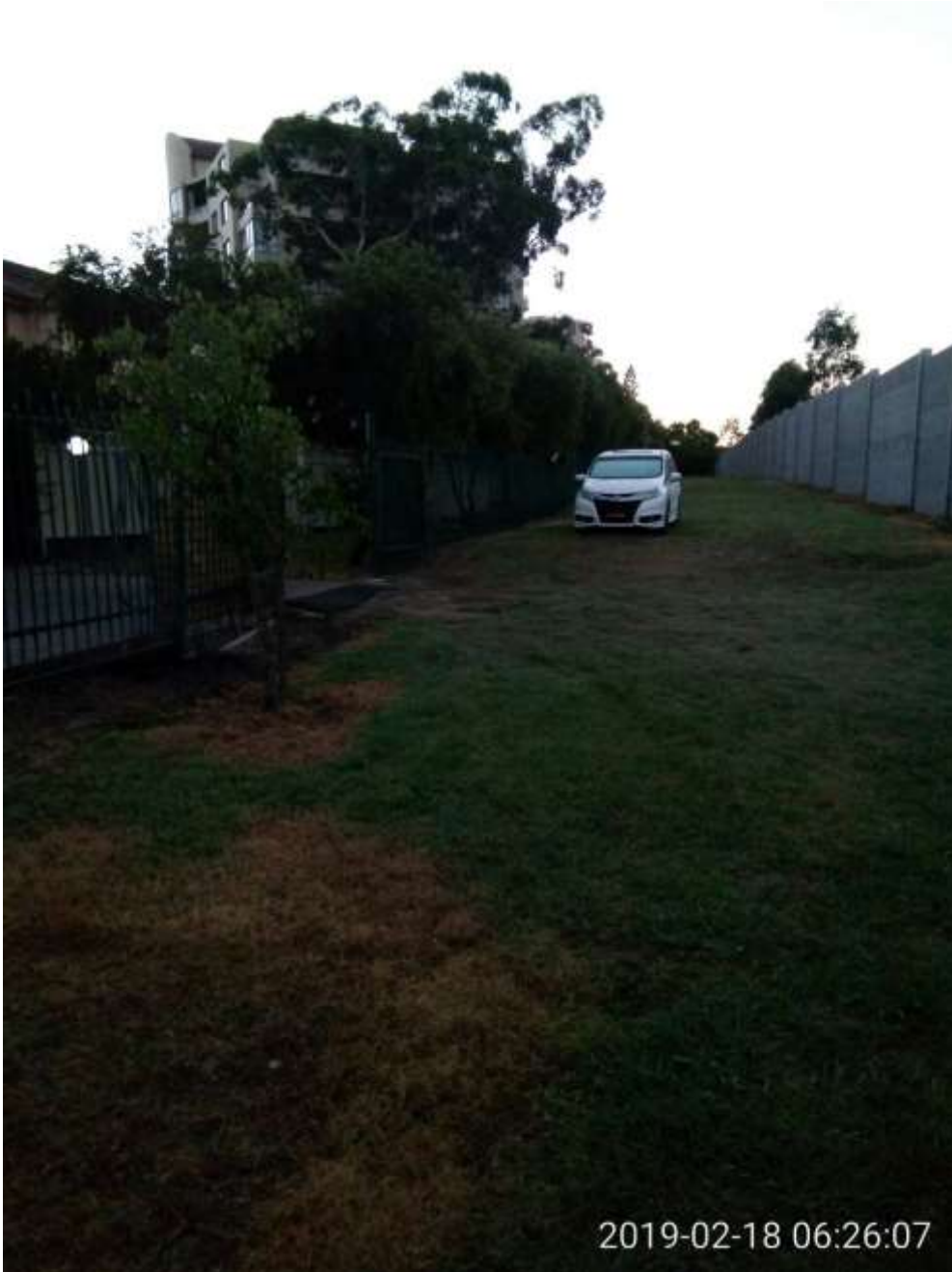




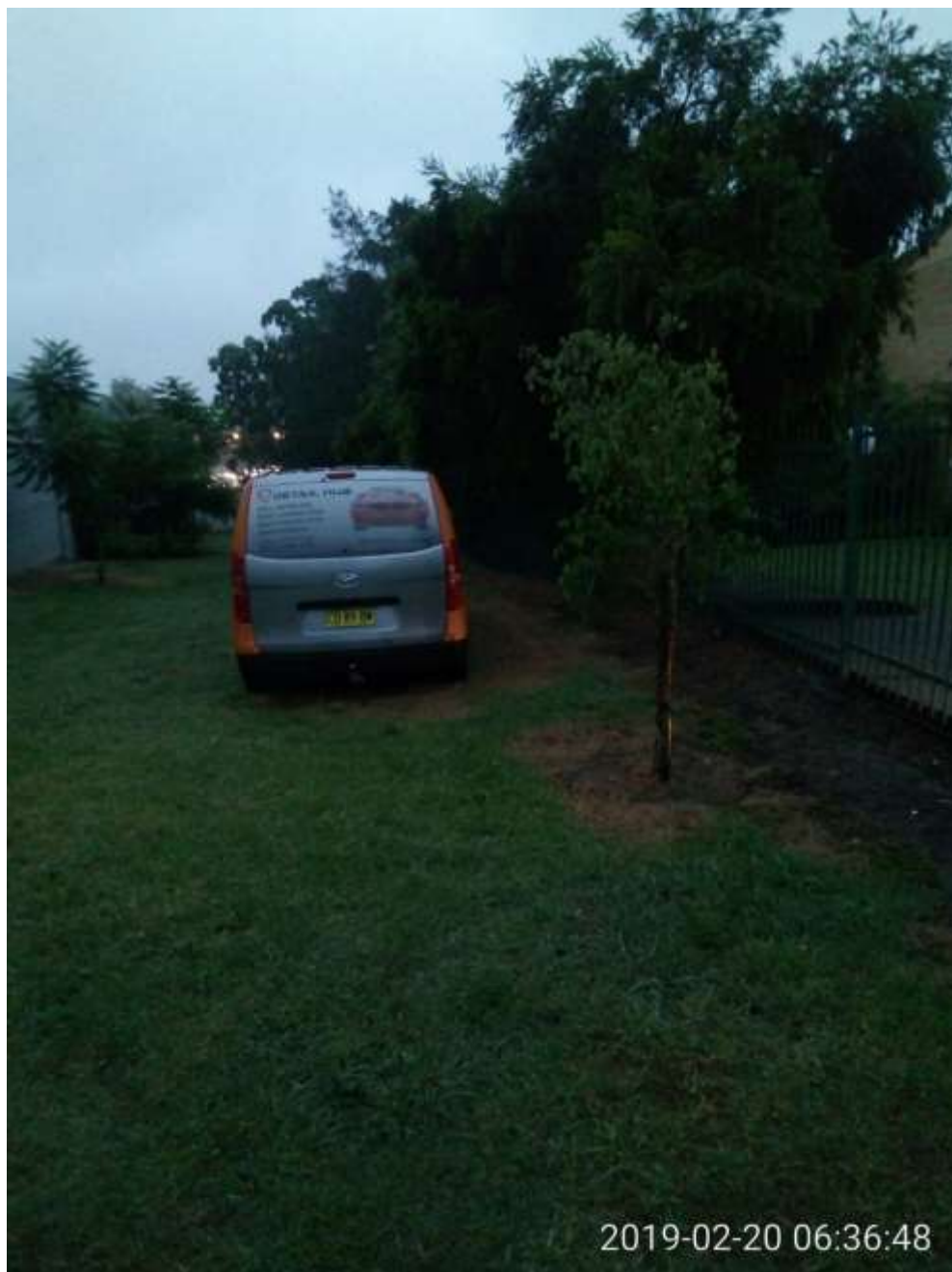
Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 17<sup>th</sup> of February 2019



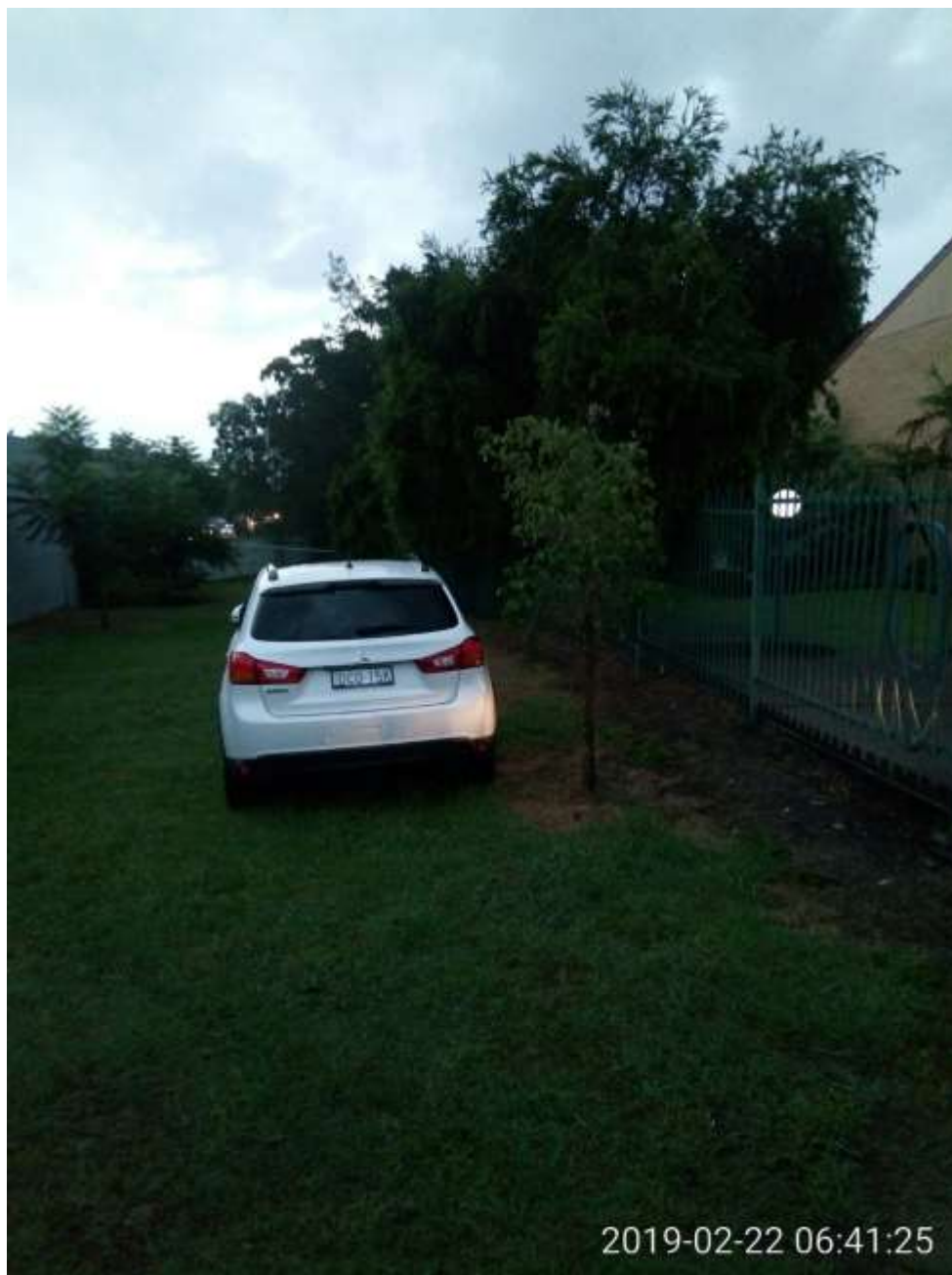
Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 18<sup>th</sup> of February 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 20<sup>th</sup> of February 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 22<sup>nd</sup> of February 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 23<sup>rd</sup> of February 2019





2019-02-23 07:13:10



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 24<sup>th</sup> of February 2019



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier (traces of car tires are very visible on top soil) on 27<sup>th</sup> of February 2019



Ryde Council – extract from email about illegal parking on council land at SP52948 on 1<sup>st</sup> of March 2019

Following on from our conversation a couple of weeks ago, I can confirm I have spoken with a representative from Waratah Strata Management to discuss the issue. They have advised they will address it accordingly.

Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 1<sup>st</sup> of March 2019





Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 2<sup>nd</sup> of March 2019



2019-03-02 06:41:49



Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 3<sup>rd</sup> of March 2019









Uniqueco Property Services allowing unauthorised parking on council land towards M2 motorway noise barrier on 5<sup>th</sup> of March 2019



Uniqeco Property Services still keeping gate opened on council land towards M2 motorway noise barrier on 6<sup>th</sup> of March 2019



Uniqueco Property Services finally locked gate on council land towards M2 motorway noise barrier allowing illegal parking for five months on 9<sup>th</sup> of March 2019



Waratah Strata Management and Uniqueco Property Services still hiding information from owners and blaming Ryde Council and Lot 158 on 21<sup>st</sup> March 2019

Extract from alleged Minutes of the Executive Committee meeting held on 21<sup>st</sup> of March 2019 and published on six notice boards in the complex over period of around one month (until 29<sup>th</sup> of April 2019).

- Use of visitor parking spaces and Council parkland - It is noted that the owners of Lot 158 have lodged multiple complaints with Council about residents use of the Council parkland at the rear of the property for parking. As a result of those complaints Council are now preventing residents from using that area for parking. It is also noted that the Owners Corporation will no longer be permitted to maintain that parkland and that Council will only mow the area every 2 - 3 months, so the area is likely to become overgrown and attract mice, rats, snakes and other vermin.

On 29 April 2019, Lot 158 politely asked Waratah Strata Management and Uniqueco Property Services to make corrections in these statements, which they ignored.

On that day, Lot 158 personally witnessed mowing being done on Lot 202 DP848752 and we have evidence of it. It was done perfectly well. The mowing was monitored by Mr. Steve Carbone (Director of Uniqueco Property Services).

### **Some facts about RE1 Public Recreation Zone Lot 202 DP848752**

- Building Manager staff employed by strata plan SP52948 has been mowing and maintain it for 22 years as part of regular duties (until March 2019). The gate towards Lot 202 DP848752 was closed at all times, apart from several months in 2015 and six months in 2018/2019. When mowing was due, typically every two-odd months, Building Manager staff employed by strata plan SP52948 would open the gate, complete mowing tasks, and close the gate.
- For several months in 2015 and six months in 2018/2019, without owners corporation approval at any meeting, or Ryde Council approval, Waratah Strata Management and Uniqueco Property Services secretly facilitated parking on the council land and disregarded pleas to stop with such blatantly illegal activities.
- Waratah Strata Management went as far as to prevent an owner from submitting Motion at SP52948 Annual General Meeting 2017 and 2018 to prevent abuse of public land Lot 202 DP848752.
- Parking on nature strips or footpaths is an offence as it is an inconvenience and a hazard.
- In oral communications with Ryde Council staff in period December 2018 to March 2019, it was confirmed that the council appreciated help from the public to maintain nature strips near properties.
- The council land is public property and may be maintained by the residents and owners on the adjacent land.
- Mowing the council grass is a 'goodwill' gesture by the residents and owners on the adjacent land (in this case SP52948).
- There is an implied consent by NSW councils to let owners and residents on the adjacent land to mow their grass.
- Owners and residents on the adjacent land who help mow council grass actually help with decreasing the cost and avoid higher council rates. It is an implied 'good citizen' duty.
- One must obtain permission from the council to undertake any works (except mowing) on the driveway, footpaths and nature strips outside the property. This includes driveway modifications, storage of materials such as skips bins and pruning, planting or replacing trees on your nature strip. Mowing of nature strips near residential properties is generally the responsibility of the owners and residents adjacent to council land.
- Parking on nature strips or footpaths is an offence, as it is an inconvenience and a hazard.
- Some councils even take drastic measures. For example, Council (Strathfield NSW) would mow the nature strip for an owner and then send them a bill:

<https://www.strathfield.nsw.gov.au/residents/trees/nature-strips/>