

# QUEENSLAND OMBUDSMAN - COMPLAINT SUBMISSION

## Complainant:

Wulf Von Der Decken

## Subject:

Administrative Complaint – Dalby Cultural Centre  
Thomas Jack Park, Western Downs Regional Council

## Date:

April 28th, 2026

## 1. Introduction

I write to request an investigation into administrative actions undertaken by Western Downs Regional Council in relation to the proposed Dalby Cultural Centre at Thomas Jack Park.

This complaint concerns the **lawfulness, reasonableness, and procedural fairness** of Council's decision-making processes, particularly in relation to:

- The classification of the development as a **“minor change”**
- The resulting **removal of statutory public participation rights**
- Council's reliance on external advice without proper scrutiny

## 2. Summary of Complaint

It is submitted that Council:

1. Misapplied the statutory test for a “minor change” under the Planning Act 2016
2. Used that misclassification to avoid public notification and participation
3. Failed to independently assess or interrogate the consultant's conclusions
4. Relied on informal consultation in place of statutory rights
5. Mischaracterised the scale and nature of the development
6. Demonstrated indicators of pre-determination

## 3. Grounds of Complaint

## Ground 1 — Misapplication of “*minor change*” (Planning Act 2016)

Under Schedule 2 of the Planning Act 2016 and the Development Assessment Rules, a change is not a “minor change” if it results in “**substantially different development,**” including where it “**involves a new use.**”

The planning report prepared by Infinitem Partners states:

“The proposed change does not result in a new use.” (*Attachment 4\_Infinitem Planning Report*)

**This conclusion is flawed.**

The development application clearly identifies distinct and substantial uses, including:

- Theatre (cinema)
- Library
- Art gallery
- Visitor information centre

These are not incidental elements, but **defined and significant uses.**

The subject land is established public parkland used for recreational purposes.

The introduction of a large-scale cultural and institutional complex constitutes:

**A material and functional change in land use, regardless of zoning classification.**

Council’s reliance on a broad planning scheme category (“community use”) improperly substitutes for the statutory test.

Accordingly, the conclusion that the proposal does not involve a new use represents a **misapplication of the Planning Act 2016.**

## Ground 2 — Unlawful Avoidance of Public Notification

The development was classified as:

- Code assessable development
- Subsequently treated as a “minor change”

This combination had the effect of:

- Eliminating public notification
- Preventing formal submissions
- Removing appeal rights

It is submitted that:

**The classification of the proposal as a “minor change” removed statutory public notification rights, thereby bypassing formal community participation mechanisms required for developments of this nature.**

## Ground 3 — Failure of Independent Assessment

Council relied on the planning report prepared by Infinitum Partners.

In its internal review response, Council stated that the justification provided was sufficient and that further elaboration was not necessary.

This indicates that Council:

- Did not critically assess the reasoning
- Did not independently apply the statutory test
- Accepted the consultant's conclusion without scrutiny

This constitutes a **failure to properly consider relevant matters**, contrary to principles of lawful administrative decision-making.

## Ground 4 — Inadequate Reliance on “Community Engagement”

Council asserts that extensive consultation was undertaken.

However, a petition opposing development within Thomas Jack Park received **4,630 entries**, with concerns including:

- Loss of green space
- Environmental impacts
- Loss of park character
- This included many formal deputations and representations made directly to Council raising concerns regarding the proposed location. (As recorded in Council meeting minutes during 2024–2026, where deputations and community representations regarding the proposed development were presented to Council.)

Despite this, the development proceeded without statutory public notification.

It is submitted that:

**Consultation was used as a substitute for, and ultimately to justify avoiding, statutory participation.**

This is inconsistent with the principles of transparency and accountability under the **Local Government Act 2009 (s.4)**.

## Ground 5 — Mischaracterisation of Development Scale

Council describes the proposal as involving “minor changes to the built form.”

However, the development comprises:

- Multiple buildings
- Significant built footprint
- Distinct operational uses

This characterisation is inconsistent with the actual scale and nature of the proposal and supports the conclusion that the “minor change” classification was improperly applied.

## **Ground 6 — Indicators of Pre-Determination**

The sequence of events indicates that:

- Thomas Jack Park was selected as the preferred site prior to formal planning assessment
- Significant community opposition did not alter the outcome
- Physical works have commenced despite ongoing objections

It is submitted that:

**The decision-making process operated to validate a predetermined outcome, rather than genuinely assess the proposal on its merits.**

## **Ground 7 — Misleading or Constrained Consultation Process**

Council relied on a “Have Your Say” consultation process as evidence of community engagement.

However, the consultation design did not provide participants with the ability to clearly express a preference regarding the **location of the proposed development**, including whether it should be situated within Thomas Jack Park.

Instead, the consultation focused on desired features and characteristics of a cultural centre, while the critical issue of site selection was effectively predetermined or constrained.

This created the appearance of meaningful consultation while limiting the community’s ability to provide input on the central issue of land use.

It is submitted that:

**The consultation process was structured in a manner that constrained genuine community input on a key decision, and therefore does not satisfy principles of transparency and meaningful engagement under the Local Government Act 2009 (s.4).**

## **Ground 8 — Potentially Misleading Presentation of Community Engagement Findings**

The Community Engagement Report records that the consideration:

“Should not take away existing green space” received an average score of **4.06 out of 5**, indicating a high level of community importance. (*Attachment 7 Community Engagement Report June 2024*)

However, Council materials (*Attachment 8 Ordinary Council Meeting May 2024, p 139*) presented to decision-makers described this issue as:

- “loss of some green space”
- framed as a comparatively minor challenge
- In some representations, being depicted as having a rating below four stars, which appears inconsistent with Council’s own Community Engagement Report (June 2024), where the same consideration received a score of 4.06 out of 5.
- These materials formed part of the information presented to Council for consideration of the project.

This raises concerns regarding whether **highly weighted community priorities were proportionately represented** in materials relied upon by Councillors.

It is submitted that:

**The presentation of engagement findings may have understated the significance of community concern regarding loss of green space, thereby affecting the transparency and integrity of the decision-making process.**

## **Ground 9 – Reliance on Potentially Incomplete or Narrow Technical Assessments**

The decision-making process relied on technical inputs and supporting reports, including:

- Engagement summaries
- Parking and usage assessments
- Design and impact representations

Concerns arise where these inputs may not fully reflect actual conditions or impacts.

Examples include:

- Parking assessments (*Attachment 6 – RMA Preliminary Parking Report*) which appear to be based on **limited observational data (e.g. users of the existing Visitor Information Centre only)**, rather than broader park usage patterns
- Representation of green space loss and site impact using simplified or partial metrics (such as footprint percentages), without full accounting of associated infrastructure and functional land-use change.

It is submitted that:

**Where decision-making relies on external reports or summaries that may be incomplete in scope or presentation, Council retains responsibility to ensure that such information is accurate, proportionate, and suitable for informing statutory planning decisions.**

## 4. Conclusion

The cumulative effect of the above is that:

- The statutory planning framework was misapplied
- Procedural rights of the community were removed
- Administrative decision-making lacked transparency and proper scrutiny
- There are serious concerns regarding the accuracy, proportionality, and completeness of the information relied upon in decision making.

## 5. Requested Outcome

I respectfully request that the Queensland Ombudsman:

1. Investigate whether Council properly applied the Planning Act 2016 and Development Assessment Rules, including its reliance on the planning report prepared by Infinitum Partners.
2. Examine whether the classification of the development as a “minor change” was lawful.
3. Assess whether Council failed to provide fair and transparent decision-making processes.
4. Examine whether Council’s reliance on the planning report prepared by Infinitum Partners was reasonable, having regard to that report’s conclusion that the proposal “does not result in a new use” and its **potential inconsistency with the statutory framework under the Planning Act 2016.**
5. Consider whether the removal of public participation rights constituted administrative injustice.

## 6. Attachments

- Attachment 1 – Timeline of Events
- Attachment 2 – Council Internal Review Response
- Attachment 3 – Notice of Decision
- Attachment 4 – Infinitum Planning Report
- Attachment 5 – Petition Summary
- Attachment 6 – RMA Preliminary Parking Report
- Attachment 7 – Community Engagement Report (June 2024)
- Attachment 8 – Ordinary Council Meeting Minutes (May 2024)

**Signed:**

Wulf Von Der Decken

