

Thursday September 10th 2026
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7 John St Dalby
QLD 4405

Western Downs Regional Council
30 Marble St Dalby

To: Western Downs Regional Council

Subject: Dalby Cultural Centre — clarification of development assessment category under the Planning Act 2016 and Western Downs Planning Scheme

Dear Chief Executive Officer & Mayor Andrew Smith,

I am writing to request clarification regarding the planning assessment of the Dalby Cultural Centre development at Thomas Jack Park, particularly the basis upon which the original development application was classified as **code assessable** rather than impact assessable.

I have recently examined the relevant provisions of the **Planning Act 2016** together with the Western Downs Planning Scheme 2017 and the development approval material.

Section 43 of the Planning Act establishes the role of a categorising instrument, including a planning scheme, in categorising development and specifying the applicable category of assessment. Section 45 then provides for the two categories of assessment—code and impact—and requires the category to be determined by the categorising instrument.

I note that section 5.3.2 of the Western Downs Planning Scheme provides, amongst other things, that:

"Where an aspect of development is proposed on premises included in more than one zone... the category of development or assessment for that aspect is the highest category under each of the applicable zones..."

and further provides that **impact assessment prevails over code assessment**.

This provision appears particularly relevant because the Ombudsman's correspondence records that the DCC development is situated over land zoned **Community Facilities, Recreation and Open Space, and Medium Density Residential**.

I therefore respectfully request clarification of the following matters:

1. Identification of the zones

Please identify each lot comprising the approved DCC development site and the applicable planning zone for each lot at the time the original development application was properly made.

2. Identification of each "aspect of development"

Please identify the particular "aspects of development" comprising the approved DCC and specify the zone or zones in which each aspect is proposed or authorised.

In particular, I seek clarification concerning:

- Community Use;

- Theatre;
- the theatre/cinema building;
- foyer and associated public areas;
- outdoor performance or event areas, if any;
- access and circulation areas;
- parking and service areas; and
- any other component forming part of the approved use rather than merely associated building works.

3. Application of section 5.3.2(4) of the Planning Scheme

Please confirm whether Council, when determining the assessment category of the original development application, expressly applied section 5.3.2(4) to each aspect of development occurring across the multiple zones.

If so, please identify the assessment category determined for each relevant aspect in each applicable zone and explain how the final category was derived.

4. Theatre use

The Ombudsman's correspondence states that the cinema building containing the "Theatre" use is situated entirely within a Community Facilities-zoned lot, and appears to rely upon that fact in concluding that the development was properly classified as code assessable.

Please clarify whether Council considers the **Theatre use itself** to be confined entirely to that Community Facilities land.

If the Theatre use, or any functional component of that use, extends onto land zoned Recreation and Open Space, please identify that area and explain how its assessment category was determined under section 5.3.2.

5. Public notification

Section 53 of the Planning Act provides that an applicant must give notice of a development application if any part of the application requires impact assessment.

Please confirm whether Council expressly considered whether **any aspect** of the DCC application required impact assessment under section 5.3.2 of the Planning Scheme and, if so, identify the analysis supporting the conclusion that no part of the application required public notification.

I am seeking this clarification because the issue appears to turn not simply upon the zoning of the principal cinema building, but upon the correct characterisation of **each aspect of the development across the different zones affected by the proposal**.

The Council has previously advised me that the development application encompassed the Cultural Centre and its associated impacts in its entirety and was not assessed in a piecemeal manner.

That makes it particularly important, in my view, to understand how the multiple zones and multiple functional components of the development were treated when determining the statutory assessment category.

I am not asserting in this correspondence that Council necessarily made an error. I'm seeking clarification of the methodology council used in its assessment and classification.

I am asking Council to clearly identify the statutory and planning-scheme reasoning by which it concluded that the original DCC application was code assessable, particularly having regard to section 5.3.2(4) and the requirement that the highest applicable category apply where an aspect of development occurs across multiple zones.

I would appreciate a written response addressing each of the above questions.

Yours faithfully,

Wulf von der Decken

Dalby, Queensland