# **CARETAKER CONVENTIONS** IN WESTMINSTER SYSTEMS LENNY MENZIES



## UNIVERSITY POLICY UNIVERSITY HUB

## **CONVENTIONS**

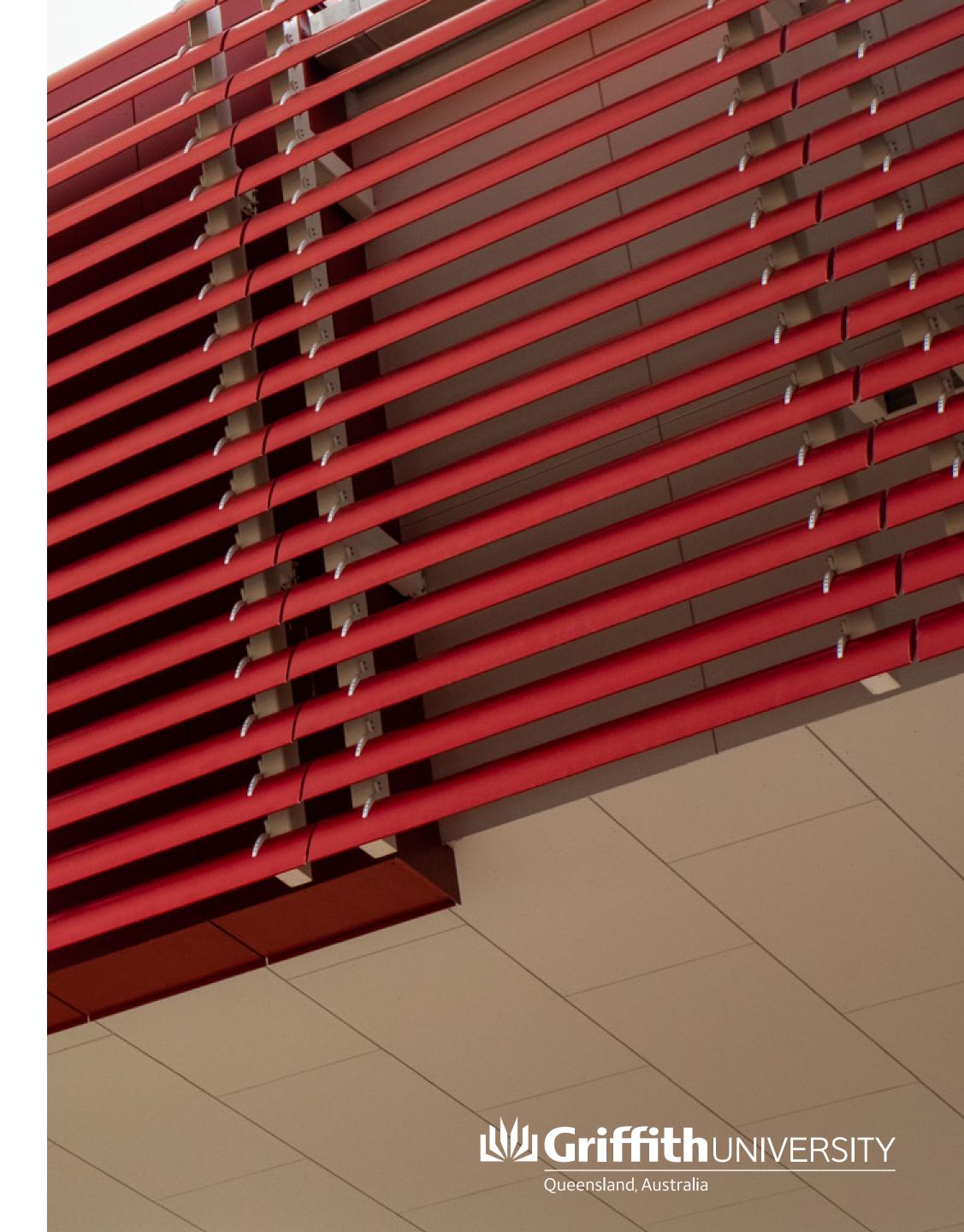
Conventions on how government works are not written down in the Constitution but can have a great impact.

#### Apply to:

- Cabinet government
- Relations between the Crown and the Parliament
- Between the houses of Parliament
- Ceremonial etiquette and protocols

#### **Characteristics:**

- They start as precedents which give rise to binding rules of behaviour
- They are not subject to judicial interpretation or enforceable through the legal system
- To continue, they must be observed by both sides of Parliament and are reciprocal with a change of government





## **PRINCIPLES OF CARETAKER CONVENTIONS**

- government can be responsible; and

#### **Operationalised as:**

- freedom of action

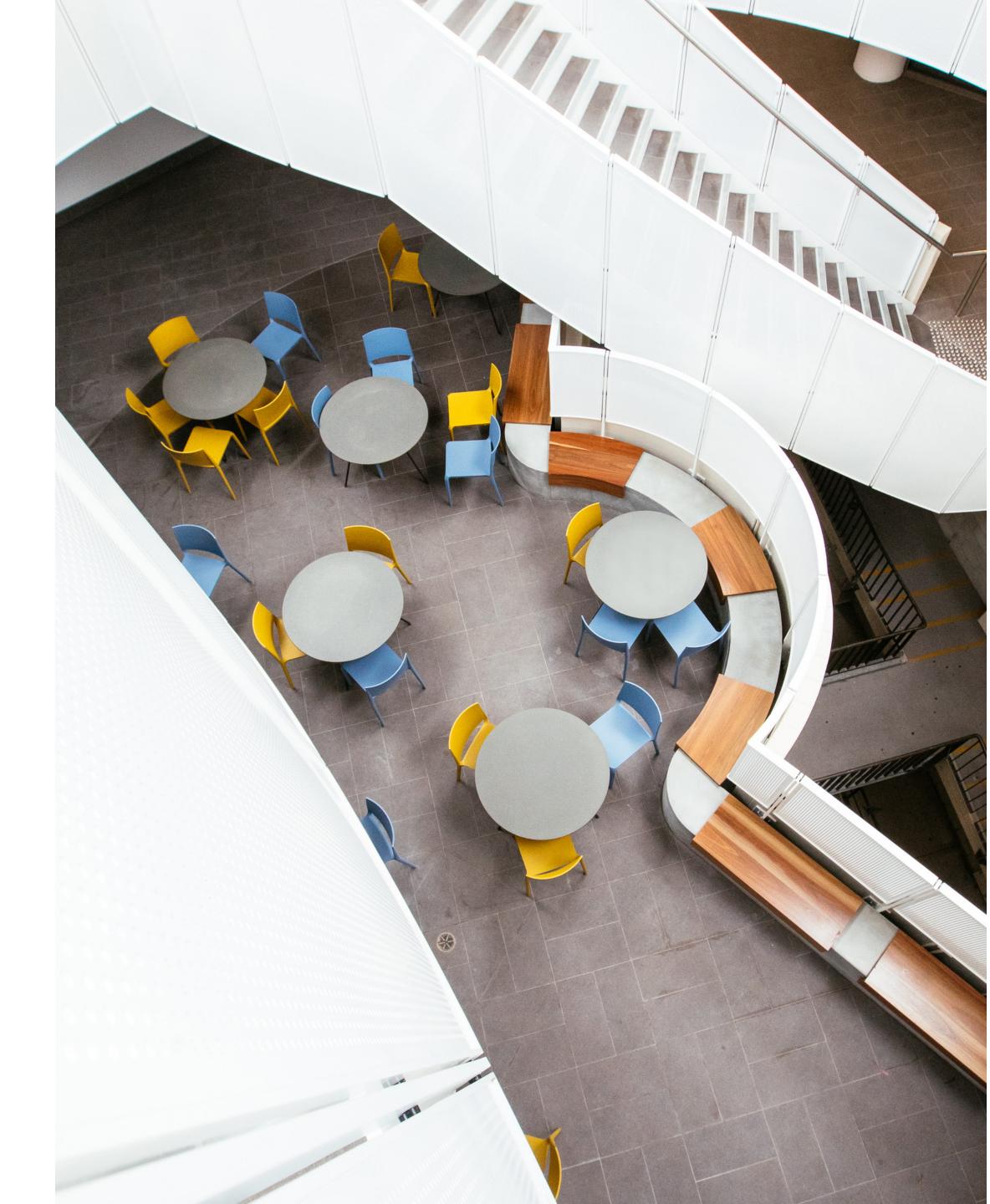
• With the dissolution of the House, there is no popular chamber to which the Executive

• Every general election brings with it the possibility of a change of

• The business of government continues and ordinary matters of administration can proceed; and • Significant decisions should not be made which would bind an incoming government and limit its







## THE PUBLIC SECTOR'S ROLE

- The conventions ensure someone has hold of the formal levers of power until a new government is formed
- Prime Ministers and Premiers are the final arbiters of the application of caretaker conventions but adjudication increasingly in the hands of senior officials
- They are outlined in Chapter 9 of the Cabinet Handbook





## **YOUR PROFESSIONAL OBLIGATIONS**

- Remember every election brings a potential change of government
- Electoral volatility makes that more of a possibility
- Hyperpartisanship increases the risk for the public service
- Public Service Act 2008 "carrying out duties impartially and with integrity'

#### **Questions and discussion**











### **CONTROVERSIES**

- Posting of ministerial press releases and transcripts on departmental websites
- Pre-election consultation and request from the Opposition for briefing
- Government appointments
- Policy announcements during the election campaign
- Government advertising
- Grants







## THE 2012 QUEENSLAND STATE ELECTION

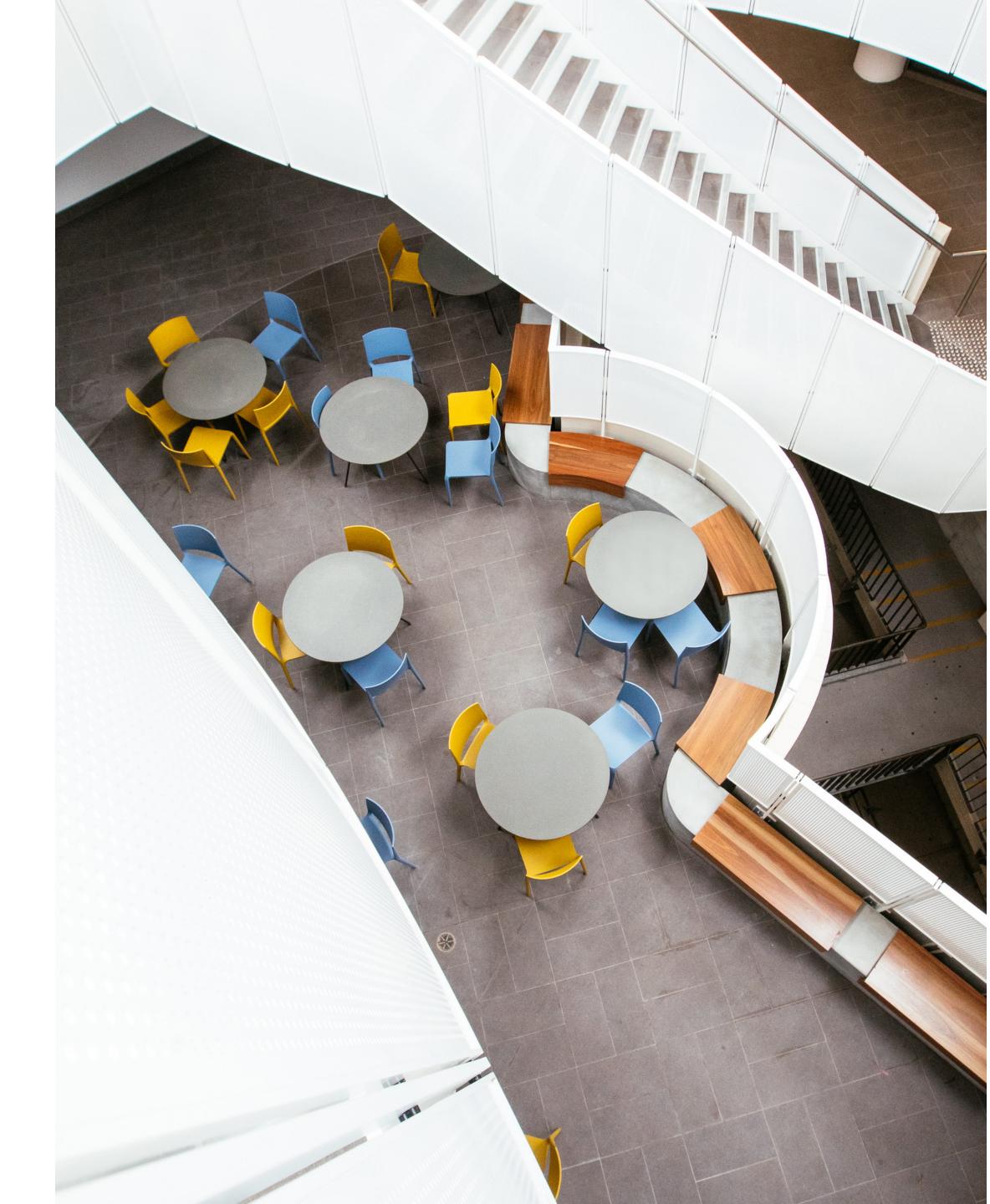
#### **Political issues:**

- When would the conventions apply from
- Appointment of the Crime and Misconduct Commission head
- Free public transport

#### **Bureaucratic issues:**

- Communication's campaigns
- Technical issues and Executive Council
- Use of government facilities
- Responding to the Flood Commission of Inquiry Report





#### **TUGAN BY-PASS**

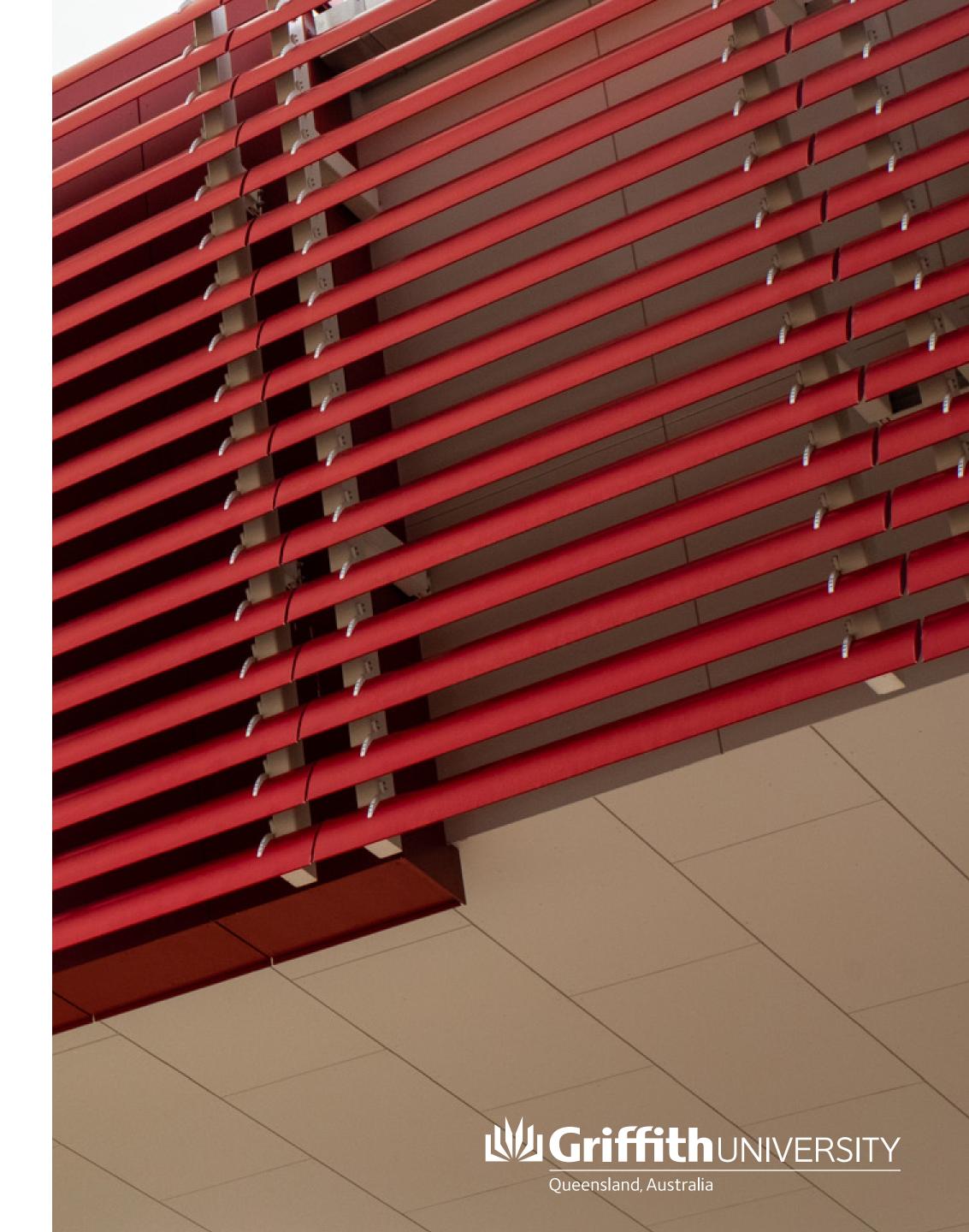
#### For discussion:

- What were the issues highlighted by the Tugun by-pass case?
- What were the implications for public servants interpreting conventions in a heated political environment?
- How might the controversy have been avoided?
- What were the lessons for Queensland public servants and other government decision-makers?



## **CHALLENGES IN APPLICATION**

- The emergence of the political office and the desire to maximise political advantage during election campaigns
- Rise of executive power and the move away from Parliamentary accountability
- Long term incumbency and the challenges of managing these relationships
- Loss of 'craft' skills and the capacity to apply precedent and judgement
- Emergence of new issues, such as the internet, and formulating new responses on how to deal with them





### **LENGTHY TRANSITIONS**

- Caretaker period ends when a new government is formed
- In the event of a hung Parliament, this could take a number of weeks
- Need for continuity of administration
- Increased chance of crisis and the need for bi-partisan decision-making





## JUDGMENT

- Application relies on judgment, knowledge of precedents and a desire to see the continuation and upholding of the convention
- However, interpretation is inevitably subjective, situational and context dependent
- But the management of them ultimately falls to senior officials to apply the caretaker principles and defend such judgments in the contested atmosphere of an election campaign

#### Questions and discussion

