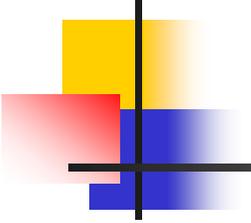


COTMA CONFERENCE MELBOURNE 2006

**DEALING WITH SIGNIFICANT  
LEGISLATION CHANGES**

**The Small Rail Participant  
Perspective**





# DEALING WITH SIGNIFICANT LEGISLATION CHANGES

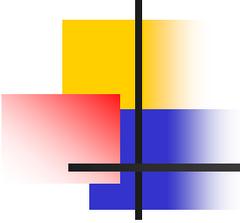
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- Today I would like to share with you the journey of the Federation of Rail Organisations of New Zealand (FRONZ) in our negotiations with government during the formulation and consultation stages of the “Railways Act 2005”.
- Unlike Christopher Columbus, who set out on a journey not knowing where he was going and on arrival didn’t know where he was and when he arrived back he didn’t know where he had been, we put a lot of effort in to planning the trip and had some clear ideas of what our aims were and some high hopes.
- The Railways Act is really the result of concerns about the poor safety performance of the former mainline operator ‘Tranz Rail’ who were killing and maiming their operational staff at an alarming rate. To be quite honest Health and Safety was certainly not on the agenda of the operator.
- Something needed to be done and following a Parliamentary Inquiry, it was decided to strengthen the hand of the regulator by crafting some legislation which pulled several bits of incoherent legislation into one dedicated act with more robust auditing and inspection processes.

## Outside Influences

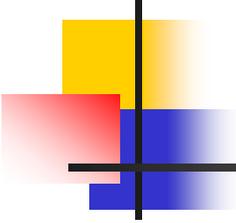
- Community
- Pressure Groups
- Local Government
- Regulators
- Central Government

# Outside Influences



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- It is a fact of life that public and official perceptions of satisfactory operations and safety change over time and these days that is moving rapidly. In this case it was driven by some very serious incidents that attracted the attention of the Government and officials and something had to be done. From time to time some proposed changes may seem trivial or unimportant to our members and not have the remotest relevance to their site.
- That may be so but don't whatever you do dismiss such initiatives or you may regret it.
- In tramway terms, the main reason for the existence of our respective tramways is to faithfully restore vehicles and ancillary equipment of the system we inherited our treasures from. Adoption of procedures and practices from those systems has allowed us to set up a functioning tramway and share the experience with visitors to the site and we understand that we must do this whilst ensuring staff and customers are not put at risk of injury or serious harm.



# Official Reaction to Major Incidents by:

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Often when regulators and government agencies introduce changes its a reaction to some incident somewhere, usually on a mainline railway and they feel they need to impose more stringent requirements on the whole rail industry including tramway museums.

This sometimes engenders a culture of fear for the future of our organisations or it can cause some to turn away and carry on with the attitude “it won’t effect us”.

This brings me to the main point of my paper which is ‘Don’t be afraid to front up to officials and Parliamentary representatives and have your say, it pays dividends’, and for the rest of the presentation I will focus on how we went about it.

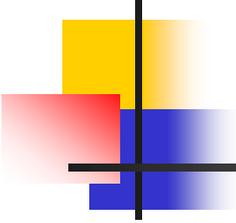
# Official Reaction to Major Incidents by:

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2

It is imperative you have a mandate from your membership, to maintain credibility. Yes I know getting them all to agree on an issue is like trying to heard cats, but you do not need 100% agreement on every detail because quite frankly some groups do not understand the substance behind the proposals or the for the solutions being considered.

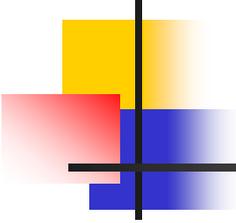
As is our FRONZ experience, clear identification of the common issues between groups is important otherwise objectivity is difficult to achieve. Once you get the membership focussed on the key points, create your rationale and pitch the arguments accordingly.



# Don't sit back and hope it will be all right in the end.

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- This brings me to the main point of my paper which is, Don't be afraid to front up to Parliamentary representatives and have your say, it pays dividends.
- To put on a credible performance, it is absolutely imperative you have a mandate from your membership. Yes I know getting them all to agree on an issue is like trying to herd cats, but you do not need 100% agreement, as long as the majority are in favour. Clear identification of the common issues between groups is important otherwise objectivity is difficult to achieve.
- We found once we had a few runs on the board, the membership had faith in our ability and empowered us to get on with the job.



# Initial Reactions

## Thinking It Through

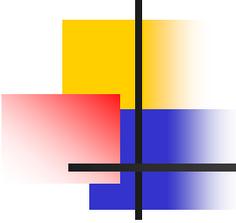
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Our first thoughts were this is over kill. The existing regime was working fine from our perspective so why lump us in with the naughty boys?

It was time to consider where all of this came from and what effect will it have on our member groups.

There must be some good things in there so lets take a rational look at it. We were compelled to analyse the concepts the officials were proposing and identify the areas of concern to us.

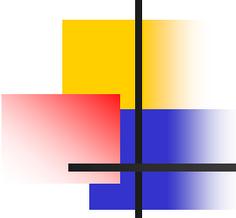
We soon discovered there were likely to be some rather draconian health and safety management concepts introduced, which would have resulted in mass resignations from our respective groups including the heritage railways. So we picked off the issues and dealt with them in order of seriousness.



# Forming a Strategy

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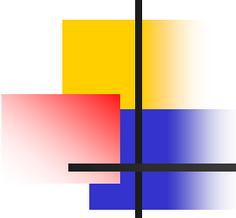
- I must say we had quite a job convincing some of the Ministers of our ability to manage our safety risks in a professional manner with far better results than Tranz Rail. This appeared quite daunting at first, but our strategy was to:
  - clearly identify the issues,
  - match them up with our own practices and experience and that of the members
  - write our submissions according to the results of our consultation.



# Into Battle

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- Once the main issues were clear it was important to prepare our approach carefully with all the facts researched and verified. There's nothing worse than fronting up to Officials or Ministers ill prepared, there is a chance they will detect your weak argument and take advantage of it.
- To avoid that:
  - prepare well constructed arguments
  - articulate them to the officials (Ministry of Transport in our case)
  - Be prepared to appear before Parliamentary select committees



# Consultation with Members

## Writing Submissions

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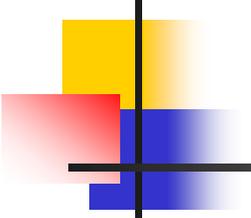
- Now it was time to put the views of our membership to officials.
- So we wrote submissions on our views and responded to official consultation documents as well
- Following some high level meetings and more importantly once we had the confidence of the Minister of Transport, he realised we were serious about our responsibilities and conducted our affairs in a professional manner. This stood us as the heritage rail advocates in good stead, particularly when other interested parties associated with the mainline operator attempted to diminish our status and infiltrate the heritage rail movement.
- This took several months of working with the Ministry of Transport, the Minister of transport, the Minister of labour and lobbying of opposition MP's as well. The trick here is to tell your story to as many politicians as you can, because they ask questions in the house which keeps your cause to the fore.

# Scary Stuff

## Where responsibility for safety lies Good Management practices

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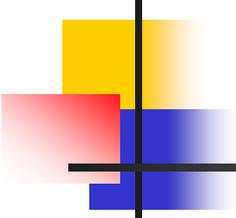
- During the gestation period of the current rail legislation, we, (FRONZ) worked very hard to bring about an understanding of the ethos of the heritage rail organisations, which includes the tramways. A particularly scary element of the proposed legislation would have required rail operators to appoint a “Safety Manager” who was responsible for all safety on their sites, and held personally responsible for any incidents which could result in fines of up to \$500,000 and or imprisonment.
- This was a recipe for disaster, as no one was going to volunteer for that job and consequently close down was inevitable
- Eventually we made some progress with the concept of us being good managers of the risks we posed and managed to convince the Minister of Labour we did this well. This resulted in the heavy stuff being dropped and tempered to the point where we felt more comfortable with the new requirements.



# Positive Move Forward

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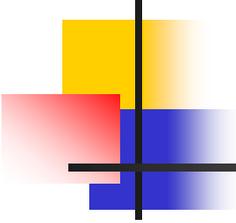
- Every Cloud \_\_\_\_\_
- The formation of 'OnTrack' a Government agency which took over ownership of the national rail infrastructure
- Better access for heritage rail
  - It is important to reiterate that there are some good things that have come out of these changes, particularly the establishment of OnTrack, the Government Agency in which ownership of the main rail infrastructure is placed. This has been a blessing to our mainline heritage operators who struggled to exist when Tranz Rail owned the tracks and ran the services as a private company.



# Where do the tramways fit into all of this? 1

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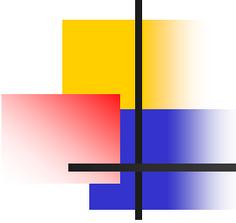
- What's this got to do with the tramways you might ask? Well we all operate under the same set of rules, but with variations to accommodate the differences. Mind you there would not have been any accommodation for tramways if FRONZ had not represented our interests.
- Fortunately at the time all of this was happening, the president of FRONZ was a tramway person, as was his predecessor, so the case for the tramways was at the top of the agenda and there was no way we were going to allow the officials to pass us over.
- When we were involved in the consultation on the “railways act” It soon became apparent that tramways were going to be caught up in the changes but little consideration was given to their uniqueness.



# Where do the tramways fit into all of this? 2

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- Obviously the law drafters saw us as just another railway and there was very little appreciation of the type of environment our museums and the Christchurch City Tramway operated in. We had to work smart to get these points of difference across.
- Topics such as compliance costs and auditing fees were also on our agenda. We argued for fees commensurate with the risk we posed and won some concessions whereby the Minister of Transport told the officials to go away and rework the scale of fees they had drawn up so they were more favourable to us. And they did.



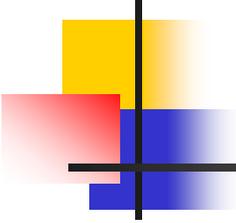
# Feelings of achievement But keep your powder dry

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Eventually we could see our efforts were being rewarded and the hard work was worth it in the end. The long hours at meetings on the phone and at the keyboard were paying off.

However we never took anything for granted and gave provisional agreement to elements of the new legislation until all processes were completed.

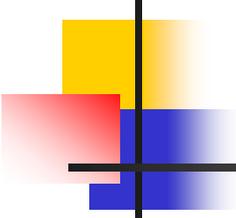
We could not afford to let our members down. I must admit it was difficult some times to remain silent at member group meetings where some answers were sought to some questions.



## Dealing with Significant Legislation Changes

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- Foster good relationships with government officials and their political masters
- You will be on the first port of call list when any other initiatives or issues crop up.



# In summary

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- We have worked over time building up credibility with officials and politicians. Ultimately this will pay dividends and you will be seen as a credible source of information during the formulation stages of proposed legislation, amendments or any other government initiatives. It's a better position to be in than bleating about missed opportunities, or being regarded as a bunch of amateurs who need to be told what to do rather than asked what we think.
- That's a good position to be in and ultimately our members are the beneficiaries.