

PRINCE HENRY AT LITTLE BAY TELECOMS INFORMATION SESSION 14 AUGUST 2019

Pre-submitted questions	Overview of responses
<p>Having lived in the Prince Henry precinct (Rockpool) for almost five years – I have nothing but praise for Pivit which has provided a perfectly sound internet and speed, landline etc. When a problem has occurred, Pivit has responded almost immediately and with any prolonged outages (there's only been one), they have continually kept us informed as to progress.</p> <p>In light of the above, my question is: why is there a necessity for change. If LBN Co. takes over – why can't Pivit continue to be the provider? Why is it necessary to find another provider?</p>	<p>Pivit initiated the change in November 2018 with the proposal that LBNCo wished to purchase their customer base.</p> <p>More than one private provider can remain in place, which means that should Pivit wish to continue as wholesale provider it could. Pivit has made it clear that it no longer wishes to remain as wholesaler. However, Pivit is currently a Retail Service Provider (RSP) over the LBNCo network.</p>
<p>One of the main reasons we bought into Prince Henry was because the whole area had been equipped with a fibre optic "backbone" that ensured that fast, high quality internet and TV services would always be available. This would not be the case if Prince Henry was converted to a "fibre to the node system" or worse still, a copper wire system. Can Landcom guarantee that whatever provider is selected to replace Pivit a "fibre to the premises" system will be maintained into the future.</p>	<p>There is no proposal to convert Prince Henry to fibre to the node or copper.</p> <p>Landcom stated that it wasn't its role to select another provider. (Explanatory note: The CA believes this statement was meant to imply that the CA should have the choice over which provider replaces Pivit.)</p>
<p>I am extremely dissatisfied with Pivit and I would like to know when this precinct is likely to be able to be freed from being constrained to this underperforming provider. The monopoly has meant that there is no effort put into providing a reliable, continuous and acceptable service.</p>	<p>The terms of the agreement were for open access, however, as Landcom understandst, no other RSPs have been prepared to operate over the Pivit network. Landcom acknowledged this failing and that it has left residents without choice which is unsatisfactory.</p>
<p>Is there any business or other related association between Peter Thompson, CEO Pivit and LBNCo or for that matter any association between director/directors of Pivit and LBNCo. And secondly what is the liquidity status of both companies. Will we as owners be subject to any liability.</p>	<p>We do not have any current information about the business associations of Pivit CEO and directors of LBNCo. However, Landcom's lawyers have asked Pivit on 5 August 2019 to provide a detailed explanation of the proposed sale of Pivit to Uniti Wireless as well as their commercial relationship with LBNCo. In this same letter, Pivit has been advised of its legal obligations under NMSA regarding change of control ownership or control. Landcom will continue to seek answers to these questions.</p>
<p>We have experienced serious quality issues with the service provided by Pivit, with frequent outages and the extended time it takes each time for the service to be restored. Ironically, even as I write this, there has been a breakdown in service, which means our kids find it difficult to complete assignments at home and we cannot perform banking transactions and other tasks related to our work. Needless to say, we cannot also access the internet for any entertainment during the time the service is down. It is quite incredible that we are locked into this captive long term tie up with Pivit and do not have the choice available to almost everyone else in Sydney (if not Australia) to choose the provider of choice . With the monopoly situation continuing, there's really no incentive for the current privileged vendor (Pivit) to improve the quality of service - with the customers (ourselves) the perennial sufferers. When will this situation change and what exactly will be done to address this unacceptable situation?</p>	<p>Landcom accepts that it is unacceptable to be locked into one provider and this is why we have spent many months trying to find a solution that gives residents greatest choice, best service levels and long term capacity and maintenance. From our experience we believe that NBN is an excellent option, however, we understand there are significant technical, cost and legislative hurdles to overcome in order to do this. We know from our experience with other private networks, that the lack of RSP choice, among other things, remains a matter of complaint.</p>
<p>As the meeting is about Telecoms Services, we would also like a question asked about the terrible mobile phone coverage in Little Bay, and what can be done to improve it. I am with Telstra and have to make do with one bar. I have frequently had calls go directly to voicemail because there isn't a strong enough signal inside my unit. At times I have had to go outside and stand on the lawn to be able to get enough signal to make a call without dropping out. My husband is with Optus and reception is not much better. There have been rumours about a new mobile phone tower being built, but nothing seems to have come of it.</p>	<p>Mobile service – It was agreed at the meeting that mobile coverage was a separate issue, albeit a large problem. However, not a problem that Landcom can help resolve. (Explanatory note: The CA can advise that some time ago, Telstra received Council approval to install mobile phone towers on the roof of the Moran building in Anzac Parade. This should improve reception for Telstra mobile phone users. Moran's building manager has undertaken to advise the CA when Telstra provides details of the works schedule.)</p>

<p>What can be done to improve the speed on the current fibre network? (i.e. is there anything possible? No one appears to be able to give us a straight answer on this.) Is it so terrible that there needs to be a new (NBN) network put in? - We are currently paying Pivit for speeds of 100/40Mbps. Pivit's operator said that it would/should be working "above 80Mbps" for download. Consistently, speed tests show</p> <ol style="list-style-type: none"> 1. When NBN will come to Prince Henry ? 2. Whats the procedure ? 3. What we need to do next ? 	<p>Landcom stated it didn't have a technical answer for the internet speed problem but suspected that it may be due to the capacity and configuration of the network. Landcom advised that, for this reason, it would like to see a new network installed at Prince Henry that has capacity for the future.</p> <p>Landcom advised it has asked NBN Co to investigate the possibility of an overbuild at Prince Henry. NBN Co has advised that they would need to build a new network in order to meet their service level agreements. For NBN Co to overbuild at Prince Henry, they would need to present a commercial case (customer base, cost etc) and would have to seek and obtain Ministerial approval. They would also need to incorporate into their build program. (Explanatory note: The CA has been working for some months with Landcom to achieve an overbuild by NBN Co. Some months ago, the CA was advised that NBN Co had costed the works and was drafting a business case. On 28 August, EC members met with Landcom and at that meeting were advised that another site visit by NBN Co was being planned with 4 September yet to be confirmed as the date.)</p>
<p>" To All Concerned "</p> <p>Who will you choose to be your next future Internet Service Provider, who you will put your trust & money in.</p> <ol style="list-style-type: none"> 1. The monopolizing back door man. <p>or</p> <ol style="list-style-type: none"> 2. Your right to choose your own Retail Service Provider. <p>Your decision will be your future outcomes.</p>	<p>We acknowledge that it is difficult for many in the community to decide who their wholesale service provider should be especially if there is limited choice and if trust has been eroded. For this reason, Landcom believes that NBN would offer a very good choice for residents.</p>
<p>Why aren't Pivit and LBNCo attending to tell their stories and field questions?</p>	<p>Landcom's lawyers have asked Pivit to respond to serious questions relevant to the Network Management Services Agreement. Landcom does not have a contractual or commercial relationship with LBNCo or any other private network operator. As a government agency Landcom operates under very strict protocols about engaging with commercial operators and any engagement must involve Landcom's rigorous procurement process.</p>
<p>If Prince Henry residents have NBN will it FTTP ?</p> <p>Will there be additional costing to residents to install it ?</p>	<p>If NBN were to install a network at Prince Henry, it would be fibre to the premises as it is at present. Landcom did not have an answer about additional costs as NBN Co was still investigating at the time of the information session.</p>
<p>Why NBN is not available at Prince Henry still?</p> <p>When NBN will be operational at Prince Henry?</p> <p>Please provide detailed steps/plan NBN has to follow with the dates of each step.</p>	<p>NBN is currently not available at Prince Henry because of the policy restrictions in respect of the private operator. Landcom could not confirm when/if NBN would be available to Prince Henry residents. NBN Co has been asked to investigate the feasibility of an overbuild. Landcom emphasised that Prince Henry represents a challenge for NBN Co and were therefore unable to make any promises on their behalf.</p> <p>If NBN Co reaches a decision on overbuild, they will be asked to brief the community on steps and provide a timeline.</p>

<p>Has NBN Co provided a "best case" and "worst case" build timeline of the new NBN network at Little Bay (reference: Map attached) overlaying the current network infrastructure? How would this then impact the current contract with Pivit given its remaining 15 years of duration? What would be if any, the financial penalty in breaking this contract and what would be the value and whom would be liable?</p> <p>If LBN Co is successful in acquiring the remaining 15 year contract;</p> <ul style="list-style-type: none"> • Does that mean that the insitu FTTP network remains for the entirety of the remaining contract or is there a service level agreement to upgrade the current network and network switches over the remaining period bringing not only speed up to "reasonable industry standard" but also the uptime to "reasonable industry standard", unlike the current situation with Pivit? • Is there a documented Service Level Agreement regarding for breaches of performance standards, time for payment damages and guaranteed maximum connection periods for non performance to these SLA's? • What protection mechanisms will be included for end users for breaches of performance standards, time for payment damages and guaranteed maximum connection periods? <p>Is there provision to dissolve the current contract in its entirety based on the long history of non-performance and re-tender to open market for interim Prince Henry network management whilst further investigating the full build of the NBN within the Prince Henry precinct?</p> <p>Whom has written to and is lobbying the Commonwealth Communications, Cyber Safety and the Arts Minister, Hon Paul Fletcher MP presently? What correspondence and or interaction has been had at this stage? Has there been departmental advice or direction on this subject as yet?</p> <p>What is Landcom's position and advice given the current monopolistic situation and the well documented SLA failures and media enquiries of both Pivit and LBN Co?</p>	<p>Landcom understands that NBN would need to complete its internal investigations and make a decision before providing a timeline. Landcom has been advised by the Department of Communications that Pivit could continue to operate its network. However, Pivit has indicated that it would not wish to do this. The NMSA is between Landcom and Pivit and includes some provisions for termination. Landcom was unable to comment on the financial implications of ending the NMSA. However this would be a matter for Landcom to work through. (Explanatory note: As the two parties to the NMSA are Landcom, the Principal, and Pivit, the Operator, any financial arrangements would be between those two parties. The Community Association is not a party to the NMSA.)</p> <p>(Explanatory note: Landcom has advised the Community Association that entering in an agreement with a private telco provider is no longer policy. Therefore it's unlikely that LBNCo would be successful in acquiring the remaining 13 years contract. Landcom also advised that with its new developments it will only deal with NBN Co for the provision of telecoms.)</p> <p>All options will be considered</p> <p>Landcom has been in contact with the Minister's office to discuss the potential for NBN to extend its network to Prince Henry. (Explanatory note: The CA has also written to Paul Fletcher requesting a meeting to discuss the options for Prince Henry users.)</p> <p>Landcom's position/ has been to investigate and facilitate options, including the option of an NBN Co overbuild which would give the community reliability, capacity and choice.</p>
<p>Was Pivit within its rights to transfer the remainder of the contract to another party? If so, why did they approach Landcom "with the view" to transferring these rights? If that's the case, would it then not be possible for Landcom to say no, and take the rights back and find a new operator themselves?</p>	<p>Landcom's lawyers have asked and are awaiting Pivit's response about any commercial arrangements with LBNCo. Landcom was approached due to the NMSA with Pivit. Landcom would not support finding another private provider. Landcom's policy supports NBN Co as an option for Prince Henry, subject to the views of the community and NBN's decision.</p>
<p>Will a new provider use the existing Fibre optic installation on a different wave length which would mean no disturbance to existing nature strips and or footpaths? If not and new cabling is required would the new provider make good any disturbed infrastructure, to include roads, and footpath surface finish as is today. With the above, would the new provider be responsible in the foreseeable future to make good any settled surface as a result of the installation of new cables as may well be expected, and if so, over what period of time would their liability span? What protection would the individual on private property have against damage to personal infrastructure during a new installation?</p>	<p>If NBN Co were the new provider, they would build a new network. Only NBN Co could advise if any ground surface disturbance would be involved but it would be expected to be reinstated. Any disturbance to private property would presumably be subject to agreement with strata associations and individual owners.</p>

<p>1. Why does Pivit want to sell, seeing it has a contractual obligation to provide the service for 15 more years? If the contract allows this, it's not worth the paper it is written on. Why select a supplier if he/she may be substituted tomorrow?</p> <p>2. Did I grasp your NBN involvement correctly if I gather that Landcom wants to throw the perfectly functioning Network in the bin and have a new one built by NBN? This would be sheer madness. We would have to pay for this nonsense.</p> <p>3. Pivit's reliability may be average but NBN's is much worse. Why do we want choice, if the choice consists of LBNC, NBN, Telstra and others who are no better and often worse than Pivit?</p>	<p>1. While Pivit indicated in November 2018 that they wanted to transfer their telecommunication assets to LBNC, this position seems to have changed but we are awaiting a response on this from our legal team.</p> <p>2. As we understand it, NBN Co would not be able to guarantee service levels if it were to use the existing network.</p> <p>3. Landcom advised that it was not able to compare reliable private network operators with NBN Co. However, they emphasised that their experience of the NBN network at its projects had been overwhelmingly positive to date. These are greenfields networks.</p>
<p>I'd like to potentially install satellite dishes on Marella's roof so we can receive Foxtel High Def . Currently that is not available over cable. As pivit controls our Foxtel and cable, how is this possible going forward?</p> <p>High def and streaming services will see increasing demand in the future, so I'm curious how that will be possible within the PHA ...</p>	<p>Landcom stated it didn't have the expertise to comment on Foxtel High Def but were willing to seek advice and report back</p>
<p>In the last 2 fibre outages, most recently weekend of 3-4 August, I lost both my internet and free to air TV. What is the planned approach to putting redundancy in our network to avoid complete loss of service on a regular basis?</p>	<p>Landcom advised that were the community to choose an alternative private provider, it would be the responsibility of each individual to seek guarantees about redundancy. This would be outside the terms of the current NMSA.</p>
<p>1) Continuity of service is vital for both the internet and land lines. I rely on the internet to monitor investments and to conduct my banking. My elderly mother in law has a health warning device in conjunction with her land line telephone.</p> <p>2) Any replacement of Pivit will need to offer choices so that we can "package" land lines, internet, and mobile phones as substantial discounts are available.</p>	<p>1. Landcom agreed that continuity of service is vital and that whatever decisions the community makes, there would need to be a plan in place to secure continuity.</p>
<p>1. Should NBN Co agree to install a new network at Prince Henry, will fibre to the premises be maintained with new NBN installation?</p> <p>2. Will landlines will be included in internet packages provided by RSPs?</p> <p>3. Will Free to Air TV and Foxtel services be included as they are now?</p> <p>4. Will residents have the choice of staying with Pivit (or a replacement private provider) or be forced onto NBN?</p> <p>5. What will be the timing for NBNCo installation commencement of new services for residents transition from existing contracts between residents/Pivit with staggered end-dates?</p> <p>6. How will the transition period be managed – down time, etc?</p> <p>7. Third party ISP costs for Prince Henry residents will costs be the same or similar to those paid by neighbouring development such as Little Bay Cove, and the rest of suburban Little Bay?</p>	<p>1. If NBN were to install a network, it is Landcom's understanding that it would be to the home but this should be confirmed with NBN</p> <p>2. This would be subject to review of RSP packages by residents. Given NBN's range RSPs, Landcom advised that NBN Co would provide the widest number of options.</p> <p>3. This would be subject to which if any other provider was installed and a question for them to answer.</p> <p>4. Landcom advised that it understood that the Pivit network could remain in place if NBN was rolled out. However, Pivit has indicated that they may not support this. Pivit has the option of becoming an RSP over other networks.</p> <p>5. NBN Co has not finalised its investigation or reached a decision. If NBN were to go ahead, Landcom would ask NBN to brief the community on timing and transition.</p> <p>6. Landcom was unable to comment on how a transition would be managed but agreed that this is of crucial importance to the community and should be made clear prior to any agreed change.</p> <p>7. Landcom advised that it assumed that were NBN Co to become a provider, the RSP offers would be the same for Prince Henry as elsewhere locally.</p>

Additional points raised during discussions

- Landcom is restrained by legislation when dealing with Pivit, however lawyers are asking questions
- Legal action can only be taken against Pivit with cast-iron evidence to support that action
- Landcom paid for the infrastructure installation, then gifted the infrastructure to Pivit on completion. However, Landcom retains a charge over those assets and will not lift that charge. This means Pivit cannot sell the infrastructure unless Landcom agrees.
- Landcom undertook to debrief and come back to the community with a plan.
- A question from the floor as to whether or not the system has been adequately maintained over the years or needs scrapping and replacing.
- Landcom, as a government department, cannot use the GIPA legislation to investigate Pivit.
- Pits, pipes and ducts belong to Landcom so LBNCo has no right to use the passive infrastructure. (Explanatory note: subsequent to the meeting it was discovered that, contrary to previous advice, the pits, pipes and ducts were assigned to Council some years ago. The CA understands this means that LBNCo may use the passive infrastructure.)
- There are differing opinions on Pivit services.
- Landcom is getting no answers from Pivit or LBNCo in response to legal letters
- What are the liquidity status of Pivit and LBNCo (Explanatory note: Subsequent to the Information Session, Uniti Wireless purchased LBNCo.)
- Information evening convened by LBNCo on 11 August. It appeared each person present was told what they wanted to hear.
- LBNCo stated to one person present that it didn't need an agreement with Landcom or the CA and didn't need to access the Communications building in Jenner Street (Lot 1).
- Why doesn't Landcom have a man on the ground to check out what's going on at Prince Henry?
- What will landcom do with its charge over Pivit if NBN does come into Little Bay. Will they release the charge, allowing Pivit to sell its infrastructure to another private provider, therefore allowing competition with another private provider, or will they be required to maintain that charge to protect NBN's market share at point of entry ?

Notes in blue are explanatory notes provided by the CA subsequent to the information session. The notes have been included to add clarity.