SUBMISSION

Draft Resilience Principles

Decision-making framework for critical infrastructure providers

Submitted **to**
Commerce Commission | Te Komihana Tauhokohoko

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Central submission

The final guidance should recognise iwi and hapū not merely as vulnerable consumers or emergency-response capacity, but as mana whenua, kaitiaki, infrastructure owners and users, holders of mātauranga Māori, and institutions with enduring responsibilities for whānau, taonga and the wellbeing of their rohe.

Executive summary

1. We support the Commerce Commission developing a consistent, evidence-based framework for resilience investment across regulated infrastructure. The draft correctly treats resilience as broader than asset hardening and recognises service continuity, organisational capability, interdependencies, preparedness, recovery and adaptation as part of a resilient system.[1]

2. The draft also contains important acknowledgements concerning rural and isolated communities, distributional impacts, risk-bearing capacity, willingness to pay, the role of marae and community infrastructure, and the risk that self-provision may mask weak formal infrastructure. Those acknowledgements should be converted into clear operative expectations rather than left mainly in examples and explanatory material.[2]

3. Our central concern is that Māori are still framed too often as one consumer category, as a vulnerable population, or as community capability available when formal systems fail. Iwi and hapū have distinct interests and roles as mana whenua and kaitiaki. They are also landowners, infrastructure owners and users, businesses, Treaty settlement entities and holders of mātauranga Māori. Those roles affect the evidence that should be considered, the people who should be engaged, the consequences that should be assessed and the options that should be developed.

4. We do not seek wholesale replacement of the draft. We recommend targeted amendments so that the framework provides fair, practical and durable decisions for iwi, hapū and communities facing high hazard exposure, historic infrastructure gaps, limited alternatives or repeated service failure or disproportionate consequences of failure.

Recommendations at a glance

- Recognise the distinct status and roles of mana whenua, iwi and hapū throughout the framework.
- Distinguish mana whenua engagement from general consumer consultation and require early, ongoing and appropriately resourced engagement for material decisions.
- Treat mātauranga Māori, lived experience and place-based knowledge as relevant evidence, with appropriate protection for Māori data and culturally sensitive information.
- Require assessment of existing service performance, repeated failure, historic underinvestment, rural isolation and community self-provision.
- Ensure criticality and consequence assessments address marae and other critical community functions, taonga, cultural continuity, environmental effects and intergenerational impacts.
- Compare capital, operational, distributed, community-led, adaptive and nature-based options fairly, including assessment of maladaptation and full-life cost.
- Link approved expenditure to actual delivery, service outcomes and geographically meaningful reporting.

1Commerce Commission, Resilience Principles: Decision-making framework for critical infrastructure providers, Draft guidance document, 3 July 2026, paras 1.16-1.20; Brown et al., Infrastructure Resilience: Key principles for regulating the performance of utilities, report prepared for the Commerce Commission, August 2025, Executive summary.

2Commerce Commission, Draft Resilience Principles, paras 2.17-2.24 and pp. 27-28.

- Explain how the guidance will be used in the Commission's regulatory processes and what further sector-specific work will follow.

1. Why an iwi and mana whenua lens is required

5. The need for stronger resilience planning is not theoretical. The 2023 North Island severe weather events disrupted electricity, telecommunications, transport, water, health services, businesses and community networks. The Government Inquiry recorded the major role played by iwi, hapū, marae, community organisations and volunteers in rescue, welfare and recovery.3

6. The effects of infrastructure failure are not evenly distributed. Rural and coastal communities may face longer restoration times, fewer alternative routes or suppliers, weaker communications and higher costs of self-provision. For Māori, the consequences can also include harm to marae, urupā, papakāinga, whenua, mahinga kai and other taonga, as well as disruption to whānau connections, tikanga and collective responsibilities.

7. The 2026 National Climate Change Risk Assessment identifies climate risks to key infrastructure, communities and safety, nature and the bioeconomy, and decision-making and funding. Its companion assessment for the Māori domain concludes that climate change reaches into identity, knowledge, governance and intergenerational wellbeing and that many risks are compounded by historical, legal, cultural and economic conditions that constrain available adaptation options.4

8. Marae are not simply buildings at risk. They are places of whakapapa, tikanga and collective identity. Many also function as hubs for shelter, food, welfare, communications and local coordination during emergencies. Public investment in marae connectivity, rural drinking-water infrastructure and cyclone recovery demonstrates that these functions are already recognised in practice. Crown Infrastructure Partners for example recorded that its Marae Digital Connectivity Programme funded broadband connections, hardware and technical support for marae, whānau and hapū. The same report described rural telecommunications upgrades using battery storage to maintain communications during mains power outages, specifically referring to failures experienced during Cyclone Gabrielle.5

9. The relevant question is therefore not whether Māori communities are inherently vulnerable. It is whether hazard exposure combines with rural isolation, existing service gaps, limited alternatives and the cultural importance of remaining connected to whenua and kāinga. At the same time, iwi, hapū and marae hold knowledge, relationships and practical capability that are essential to effective resilience planning.

10. For us these issues are not abstract. Our whānau, marae, papakāinga, businesses and whenua depend on electricity, telecommunications, transport and water networks that are often exposed to

3Government Inquiry into the Response to the North Island Severe Weather Events, Final Report, March 2024; Department of Internal Affairs, final report released 23 April 2024.

4He Pou a Rangi Climate Change Commission, 2026 National Climate Change Risk Assessment, 7 May 2026; Bioeconomy Science Institute and Ngā Pae o te Māramatanga, Ngā mea hirahira o te ao Māori: Climate change risks to the Māori domain, November 2025, corrected June 2026.

5National Infrastructure Funding and Financing Limited, Annual Report 2025, p. 3; Cyclone Recovery Report, 1 July to 31 December 2025, p. 3; Crown Infrastructure Partners, Annual Report 2024, rural drinking-water case study. Crown Infrastructure Partners Limited, *Annual Report 2023*, 2023, p. 16 (Marae Digital Connectivity Programme and rural communications resilience initiatives).

flooding/coastal hazards/seismic risk/isolation/etc. When these systems fail, the consequences extend beyond individual household inconvenience. They impact our ability to maintain whanaungatanga, manaakitanga, kaitiakitanga, access to whenua and the functioning of marae and community institutions.

2. Mana whenua, engagement and Māori evidence

11. The final guidance should distinguish between general consumer consultation, community engagement and engagement with mana whenua. These processes may overlap, but one is not a substitute for another. Consumer consultation may test price and service preferences. Mana whenua engagement may also concern effects on taonga, kaitiakitanga, collective interests, whenua Māori, papakāinga, cultural sites, Treaty settlement relationships and the long-term wellbeing of the rohe. These matters are particularly significant where mana whenua, marae and iwi organisations are expected in practice to support communities when formal infrastructure fails.[6]

12. Te Waihanga's research finds strong agreement that enduring relationships based on trust are more effective than project-by-project consultation. It also identifies recurring challenges, including uncertainty about who to engage, multiple public entities approaching the same groups, multiple-owned Māori land, sensitive information and the resource burden placed on Māori organisations.[7]

13. For material risks or investments affecting iwi and hapū, providers should identify the appropriate mana whenua representatives, engage before the problem and preferred solution are fixed, provide accessible information, allow time for collective decision-making, recognise tikanga, coordinate with other providers where appropriate and explain how Māori evidence affected the final decision.

14. Engagement should be appropriately resourced. A small iwi or hapū organisation may hold essential knowledge while having limited staff and technical capacity. Capacity should not be confused with the importance of the interests involved. Where a provider proposes to rely on marae or community capability as part of a resilience solution, there should be explicit agreement about the role, funding, equipment, training, maintenance and ongoing relationship required.

15. Mātauranga Māori, lived experience and place-based knowledge should be treated as evidence alongside engineering, hazard, asset and financial information. This does not mean every assertion is accepted without examination. It means relevant evidence is identified, considered on its merits and integrated into the decision record rather than collected ceremonially and ignored. Where communities contribute knowledge or participate in hui, providers should report back on how that information was considered, what decisions were made and why. Engagement should not be treated as complete when information has been extracted from the community.

16. The guidance should also acknowledge Māori data interests and culturally sensitive information. Providers and the Commission should collect only what is reasonably required, agree how sensitive information will be held and used, and avoid public disclosure that creates security, privacy, commercial

[6] Commerce Commission, *Watercare's performance in 2025*, 28 November 2025, para 1.28, p. 15.
7Te Waihanga New Zealand Infrastructure Commission, Māori engagement in infrastructure research; Māori-infrastructure provider engagement report; Māori engagement across the infrastructure system, published 17 January 2025.

or cultural harm. Public reporting may be aggregated while still providing enough place-based information for communities to understand risk and scrutinise performance.[8]

3. Existing service conditions and critical community infrastructure

17. Resilience assessment should begin with the actual service baseline. Communities do not enter an emergency from a neutral position. Frequent outages, unsafe or unreliable water, poor mobile coverage, long restoration times, deferred maintenance and weak asset information can materially reduce the ability to cope with a major disruption.[9]

18. Community self-provision must not be treated automatically as evidence that the formal network is resilient. Generators, water tanks, batteries, satellite connections and marae support may be sensible elements of a resilience strategy. They may equally indicate that households, marae and community organisations have had to absorb costs and risks because formal infrastructure is unreliable, unavailable or under-invested. Providers should therefore identify the extent to which resilience depends on private or community expenditure and ensure those costs are recognised in the assessment rather than treated as free resilience capacity.[10]

19. The counterfactual used in economic analysis should therefore be lawful and sustainable. It should not assume continuation of acknowledged underperformance, repeated service failure or an inequitable transfer of cost to households, marae, iwi organisations and local businesses.

20. Criticality should not be determined by connection numbers, revenue or ordinary demand alone. A marae, papakāinga facility, community water supply or local communications site may have modest normal demand but become essential during an emergency. Providers should assess whether facilities perform critical service, welfare, communication, cultural or recovery functions and whether that should affect asset criticality, design standards, interim service and emergency preparation and priority arrangements or restoration priorities.[11]

21. The framework should not assume that every marae is willing or equipped to operate as an emergency hub. That role must be determined with the relevant marae and mana whenua, not assigned by outsiders because it is convenient. Where the role is relied upon, the associated costs and capability requirements should form part of the resilience investment decision.

22. The guidance should require providers to identify applicable statutory and regulatory minimums and explain the continuity, communication, interim-service and restoration outcomes used in their analysis. Where existing sector settings do not adequately protect essential needs, the Commission should

8Stats NZ, Ngā Tikanga Paihere guidance for responsible and culturally appropriate use of data; Te Mana Raraunga, Principles of Māori Data Sovereignty. Commerce Commission, *Information Disclosure for Water Services: Regulatory Framework Paper*, 24 February 2026, paras 23-31, pp. 7-8.

[9] Brown et al *Infrastructure Resilience: Key Principles for Regulating the Performance of Utilities*, report prepared for the Commerce Commission, August 2025, pp. 16-17.

10Commerce Commission, Draft Resilience Principles, paras 2.17-2.21, especially the discussion of community self-provision and risk-bearing capacity.

[11] Brown et al., *Infrastructure Resilience: Key Principles for Regulating the Performance of Utilities*, section 1.8, pp. 35-36.

consider whether further sector-specific quality or performance requirements or other regulatory tools are required.[12]

4. Assessing consequences, criticality and interdependencies

23. We support the draft distinction between risk tolerance and risk-bearing capacity. What a community says it is willing to pay is not necessarily what it needs or what it can safely withstand. Willingness to pay may be constrained by income and may undervalue impacts on lower income, rural or isolated communities. The ResOrgs report identifies the same risk in conventional valuation methods.[13]

24. Assessment should include the cost of service failure already borne by consumers and communities, including private backup systems, lost income, food spoilage, travel, water cartage, health impacts, disrupted education, business interruption, volunteer labour and use of marae or iwi resources. Excluding those costs makes an under-performing network appear cheaper than it is.[14]

25. Cultural, environmental and collective effects should be assessed directly rather than forced into a monetary value where that would be artificial or misleading. Relevant effects may include impacts on mauri, tikanga, kaitiakitanga, mahinga kai, access to whenua, cultural continuity, wāhi tapu, taonga species, collective identity and Māori economic activity. Multi-criteria analysis, cultural impact assessment and structured qualitative evidence may be appropriate alongside cost-benefit analysis.[15]

26. Materiality should be assessed by the nature and consequence of the risk, not only by expenditure value or population size. Relevant considerations include potential harm to life and health, duration of disruption, absence of alternatives, isolation, effects on taonga and culturally significant places, irreversibility and cumulative or repeated impacts.

27. The framework should address cascading and compounding risk. Failure of electricity can disable telecommunications, water and fuel systems. Transport disruption can prevent repair crews and supplies reaching affected areas. Repeated events can also reduce household savings, insurance access, workforce availability and community capacity over time. Repeated failures can also deepen existing social and economic inequalities. Health may be affected where drinking water is unsafe or unavailable, while unreliable electricity or telecommunications can disrupt access to education, health and emergency services, employment and public information. Mapping dependencies is useful only if it leads to identified responsibilities, tested arrangements and investment decisions.

28. Cross-sector responsibilities should be documented. Providers should identify dependencies, responsible organisations, contact arrangements, alternative supply options, restoration assumptions and unresolved funding issues. The Commission should expect providers to show how cross-sector consequences have been included in economic and criticality assessments.[16]

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[12] See, by analogy, Commerce Commission, *Commission 111 Contact Code 2024*, 26 June 2024, cl 5, p. 6 and cls 8-10, pp. 10-11.

13Brown et al., Infrastructure Resilience, sections 1.6-1.8, pp. 34-36 and section 1.7, p. 35.

[14] Ibid at section 1.4, pp. 31-32.

[15] M Roskruge, R Meade, T Le, G McLellan and J McDermott, *Understanding the Economic Value of Māori Taonga: A Scoping Study*, Te Au Rangahau, Massey Business School, November 2022, pp. 33-46; Brown et al., *Infrastructure Resilience: Key Principles for Regulating the Performance of Utilities*, pp. 46-47.

16Commerce Commission, *Resilience Principles: Decision-making framework for critical infrastructure providers*, Draft guidance document, 3 July 2026, principle 3 and indicators of good practice, pp. 14 and 27; Brown, et al., *Infrastructure*

5. Selecting and funding resilience options

29. We support structured option development. Providers should consider a genuine range of alternatives, including accepting or transferring risk, maintenance, vegetation management, operational readiness, mobile or temporary service, redundancy, distributed energy, local storage, relocation, nature-based solutions, community-led initiatives and conventional asset hardening.

30. Regulatory treatment should not create a structural preference for provider-owned capital expenditure over operational, distributed or community-based solutions that produce better whole-of-life outcomes. Community-led options should not be treated as free inputs. Their governance, equipment, training, maintenance and replacement costs must be included.[17]

31. Each option should be tested for maladaptation. An investment should not be preferred where it reduces one risk while materially increasing another, locks a community into an unsustainable service model, transfers risk to mana whenua or future generations, damages environmental systems that provide protection, or makes later adaptation substantially more difficult or costly.

32. Options should also be assessed for deliverability. The lowest-cost engineering option may be poor value if it conflicts with applicable legal obligations, creates foreseeable land access or consenting difficulties, relies on unavailable workforce or supply chains, or damages relationships needed for implementation and emergency response.

33. Funding should reflect who benefits and who creates or controls the risk. It may be unfair to place the full cost on a small local consumer base where the investment also protects nationally or regionally important services, enables emergency response, or produces wider public benefits. The guidance should require transparent assessment of cost allocation and consideration of co-funding or other mechanisms where benefits extend beyond directly connected consumers.

34. Cost allocation should also consider whether investment made now avoids substantially greater costs or irreversible losses for future generations, particularly where infrastructure has a long asset life or a decision made today could limit, or make significantly more costly, the adaptation options available in the future.

6. Delivery, disclosure and accountability

35. Resilience regulation should not stop when expenditure is approved. Providers should define the service and community outcomes expected from material investment, delivery milestones, residual risk, performance measures and the evidence that will demonstrate completion and effectiveness.[18]

36. For significant proposals, provider boards should be able to demonstrate oversight of risk appetite, major assumptions, mana whenua and community engagement, interdependencies, delivery capability and residual risk. Resilience is not solely an engineering or asset-management function. It is a governance responsibility.[19]

Resilience: Key principles for regulating the performance of utilities, report prepared for the Commerce Commission, August 2025, section 1.5, pp. 32-34.

[17] Commerce Commission, *Price-Quality Path for Watercare: Emerging Views Paper*, 25 June 2026, paras 7.9-7.14, pp. 75-76.
[18] Commerce Commission, Watercare's performance in 2025, 28 November 2025, paras 8.1-8.4, pp. 44-45.
[19] Ibid at paras 9.0-9.2, pp. 49-50.

37. Workforce, contractors, critical spares, fuel, communications, access, mutual-aid arrangements and procurement lead times should be tested as part of deliverability. A restoration plan that depends on resources unavailable during a regional event does not provide credible assurance.[20]

38. Reporting should be geographically meaningful. Network-wide averages can conceal repeated failure or slow restoration in remote areas. Providers should disclose sufficient information to show local outage or service performance, major risks, planned investment, delivery status and residual risk. It should be made clear to affected communities what the providers are doing and when.[21]

39. Communications are a resilience service. Providers should have arrangements for warnings, restoration estimates, regular updates, communication when ordinary digital channels fail and liaison with iwi, marae and trusted local organisations. Plans should account for language, disability and digital exclusion.[22]

40. The final guidance should contain an implementation table identifying, for each principle, the minimum current expectation, examples of evidence, relevant Commission processes, when proportionality applies, how departures should be explained and the intended review date.

41. The Commission should also explain how the guidance will influence default and customised price-quality paths, reopeners, information disclosure and water regulation.[23] Where safety, environmental or quality functions sit with another regulator, the Commission should coordinate its information and expenditure settings so that providers receive coherent expectations and mana whenua and affected communities are not required to expend limited resources repeatedly engaging different parts of government about the same underlying risks.

7. Responses to the consultation questions

1. Purpose and practical status

42. The purpose is broadly clear, but the practical status is not. The final guidance should state the minimum expectations applying now, the evidence expected for material proposals, how a provider may justify a departure and how the Commission will use the guidance in regulatory decisions.

2. Proportional application

43. Proportionality should reflect consequences, uncertainty, remoteness, absence of alternatives, cultural and environmental importance and existing resilience burdens, not only investment value. A modest project affecting a small population may require rigorous analysis where failure would have severe or irreversible effects.

3. Implementation barriers and accountability

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[20] GHD Ltd, *Orion's CPP Verification Report*, report prepared for Orion New Zealand Limited and the Commerce Commission, 31 March 2026, pp. 249 and 275 (including assessment of governance, deliverability, asset-management maturity and investment and risk-management capability). Commerce Commission, *Watercare's performance in 2025*, 28 November 2025, paras 8.3-8.4, p. 45;

[21] See, by analogy, Commerce Commission, *Draft Tiaki Wai Economic Regulation Determination 2026*, 7 May 2026, cls 2.2.2-2.2.4 and 2.3.1-2.3.3, pp. 9-10 and Commerce Commission, *Commission 111 Contact Code 2024: Decisions and Reasons Paper*, 26 June 2024, paras 205-209, pp. 46-47.

[22] Crown Infrastructure Partners Limited, *Annual Report 2023*, 2023, p. 16.

[23] Commerce Commission, *Economic regulation for Tiaki Wai: Consultation on recommending performance requirement regulation*, 7 May 2026, paras 3.6-3.10, pp. 11-12.

44. The principal barriers are fragmented responsibility, incomplete interdependency information, economic methods that understate cultural and community effects, incentives favouring capital expenditure, repeated demands on limited iwi capacity, unresolved cross-sector funding and weak accountability after expenditure is approved.

4. Priorities for further work

45. Priority work should include a mana whenua and community engagement standard, resilience and service-outcome measures, place-based interdependency pilots, practical guidance on cultural and distributional effects, geographically useful disclosure, delivery assurance and maturity assessment.[24]

46. Priority work should also include practical systems for bringing resilience data together in a form that allows mana whenua and communities to understand local risk, compare provider performance and participate effectively in future investment and regulatory decisions.[25]

5. Most helpful aspects

47. The most useful elements are the system-wide view of resilience, distinction between risk tolerance and risk-bearing capacity, recognition of distributional impacts and self-provision, structured optioneering and attention to interdependencies.

6. Areas needing improvement

48. The guidance should be more directive. Important Māori and rural-community considerations currently appear in examples and indicators rather than being consistently embedded in the principles and evidence expectations.

7. Missing or overlapping principles

49. No wholesale replacement is needed in the document. The missing elements are explicit recognition of mana whenua status, historic service baselines, maladaptation, governance accountability, workforce and supply-chain capability, and post-approval delivery assurance. Overlap between impacts, risk tolerance and criticality could be reduced by using a single consequence-assessment sequence.

8. Frameworks and tools

50. The guidance should refer to cultural impact assessment, distributional analysis, adaptive pathways, robust decision-making and structured multi-criteria analysis. It should caution that monetisation and willingness-to-pay methods can reproduce existing income inequalities.

9. Current approach and experience

51. Iwi and hapū already contribute to resilience through marae preparedness, emergency response, local energy and water initiatives, infrastructure relationships, environmental monitoring and mātauranga-based assessment. However, these activities are not consistently recognised within regulated infrastructure decision making, and there is limited visibility of how provider resilience planning draws on them. The Commission should use the implementation of the guidance to better understand current practice across different rohe and sectors and provide that feedback to providers.

10. Practical examples

52. We recommend that the Commission establish a small number of place based resilience pilots with infrastructure providers, mana whenua and affected communities. These should test how the draft

[24] Brown et al., *Infrastructure Resilience: Key Principles for Regulating the Performance of Utilities*, report prepared for the Commerce Commission, August 2025, pp. 76-77.
[25] Commerce Commission, *Information Disclosure for Water Services: Regulatory Framework Paper*, 24 February 2026, para 22 and paras 23-31, pp. 6-8.

principles operate in practice in locations facing different combinations of hazard exposure, rural isolation, infrastructure interdependency, repeated service failure and reliance on marae or community capability. The pilots could also test practical approaches to interdependency disclosure, resilience maturity assessment, community-based planning and performance reporting.[26]

11. Iwi, hapū and Māori perspectives

53. The framework should recognise mana whenua as significant participants with legal, cultural, governance and place-based interests of direct relevance to decisions by providers and the regulators, not only as consumers. It should require early and resourced engagement, identification of relevant mātauranga, lived and place based evidence, protection of sensitive information and explicit explanation of how Māori evidence affected the decisions being made and how those decisions will be monitored and reported back to those communities.

54. The final guidance should therefore make mana whenua participation an explicit part of the decision-making framework rather than leaving it to be inferred from broader references to communities and consumers.

12. Cross-sector vulnerabilities

55. The greatest emphasis should be on electricity-telecommunications-water dependencies; transport access for repair and emergency response; fuel and backup power; communications when networks fail; wastewater and public-health consequences; and the capacity of marae and local communities and organisations where they are relied upon in response and recovery.

56. Iwi, hapū and marae often observe these cross-sector failures directly and carry substantial response and recovery burdens. Their experience is therefore relevant evidence of how infrastructure failure operates in practice and of the consequences for whānau now and for future generations.

8. Requested amendments to the final guidance

57. We recommend that the Commission amend the final guidance to:

- recognise the distinct status and roles of mana whenua, iwi and hapū, including relevant legal, Treaty settlement, statutory, planning and relationship obligations;
- distinguish mana whenua engagement from general consumer consultation and require early, ongoing and appropriately resourced engagement for material risks and investments;
- recognise mātauranga Māori, lived experience and place-based knowledge as relevant evidence for decision makers, with appropriate protection for Māori data and culturally sensitive information.
- require providers to monitor implementation and report relevant decisions and outcomes back to affected mana whenua and communities;
- require assessment of existing service performance, repeated failure, historic underinvestment, rural isolation, self-provision and the absence of practicable alternatives;

[26] Brown et al *Infrastructure Resilience: Key principles for regulating the performance of utilities*, report prepared for the Commerce Commission, August 2025, Executive Summary, p. iv.

- require criticality and consequence assessments to address marae and other critical community functions, health, taonga, cultural continuity, environmental effects, collective impacts and Māori economic activity;
- ensure willingness to pay is not treated as a proxy for need and that affordability analysis includes costs already shifted to households, marae, iwi organisations and businesses;
- require fair comparison of capital, operational, distributed, community-led, adaptive and nature-based options, including maladaptation, whole-of-life cost and deliverability;
- require clear cross-sector responsibility, tested interdependency arrangements and fair cost allocation where benefits extend beyond directly connected consumers;
- link approved expenditure to defined delivery, service and community outcomes, supported by geographically meaningful disclosure and proportionate assurance; and
- include an implementation table explaining the minimum expectations, evidence requirements, regulatory use, treatment of departures and future review.

Suggested operative wording

Mana whenua and legal context

In applying this guidance, infrastructure providers should identify and take account of all relevant legal, regulatory and relationship obligations applying to the provider, proposed activity or relevant decision-maker.[27] These may include Treaty settlement legislation, statutory acknowledgements, deeds or relationship instruments, planning documents, consent conditions and obligations relating to Māori interests, cultural values and taonga. This guidance does not replace, limit or alter those obligations.

Materiality

Materiality should be assessed by reference to the nature and consequences of the risk, not only the dollar value of the investment or number of consumers affected. Relevant considerations include potential harm to life and health, duration of disruption, absence of alternatives, isolation, effects on taonga and culturally significant places, irreversibility and cumulative or repeated impacts.

Community capability

Community preparedness and self-provision should not be treated as evidence of strong infrastructure resilience where they compensate for unreliable or under-invested networks. Where a provider relies on community or marae capability as part of a resilience solution, the role, agreement, costs, resources and ongoing responsibilities should be expressly identified.

Mana whenua engagement

Where a material resilience risk, investment or service decision may affect mana whenua interests, providers should identify and engage the appropriate mana whenua representatives early enough for that engagement to influence problem definition, option development and decision-making. Providers should explain how information and views provided through that engagement were considered and, where material matters were not adopted, why. Engagement expectations should be proportionate to

[27] See, in the water-services context, Commerce Commission, *Information Disclosure for Water Services: Regulatory Framework Paper*, 24 February 2026, para 64, p. 15. Sections 57S and 57ZWof the Commerce Act require the Commission in that context to take account of suppliers' existing obligations under other legislation, instruments and Treaty settlement obligations.

the nature and consequences of the decision and should recognise tikanga, collective decision-making processes and reasonable capability constraints.[28]

9. Conclusion

58. We support the Commission developing a coherent and evidence-based resilience framework. Its value will depend on whether it changes actual investment, service and accountability decisions.

59. A sound framework should ask not only whether an asset can withstand a hazard, but whether essential services will continue, who will bear the greatest harm if they do not, whose knowledge informed the decision, whether cultural and environmental relationships will be protected, whether the option creates new risks and whether approved spending produces the promised improvement

60. Māori communities should not be valued merely for their ability to improvise when formal systems fail. Their legal interests, knowledge, institutions and aspirations should help shape infrastructure decisions before failure occurs.

Nāku noa, nā

Riki Ellison

Chair

Te Puna, Taumata Arowai

[redacted]

[28] Commerce Commission, *Watercare's performance in 2025*, 28 November 2025, para 1.28, p. 15; Commerce Commission, *Information Disclosure for Water Services: Regulatory Framework Paper*, 24 February 2026, para 22, pp. 6-7.