



Municipal Liability Related to Extreme Weather

Note for remarks to

**The Great Lakes and St. Lawrence Cities Initiative
Conference**

By Brian Kelly, Manager of Sustainability, Region of Durham

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Future Climate in Durham

2040s compared to 2010s: SENES Study

- **Warmer:** 4°C warmer overall; 5.8°C average in winter; 2.6°C in summer; heat wave temps 7.1°C warmer; humidex readings up to 54°C
- **Wetter:** 16% more precipitation overall; 50% increase in one day max. rainfall; 100% increase in days with over 25 mm rainfall; 72% more rain in July and 79% more in Aug.; 217% more rain and 75% less snow in Feb.
- **Wildier:** more intense rainfall; 15% increase in pot'l for violent storms and 53% increase in pot'l for tornados
- Changes are locked in; typical for southern Ontario



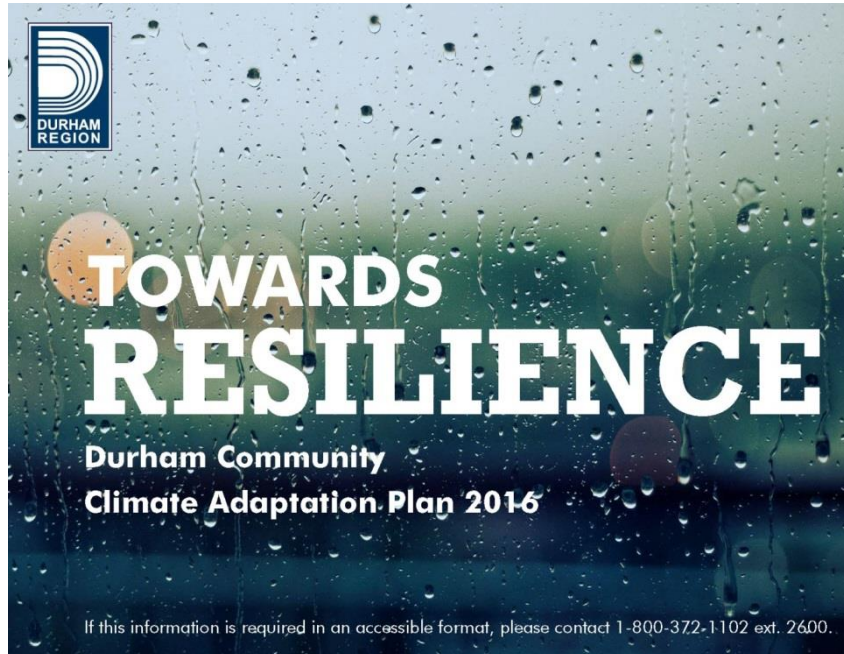
Future Climate 2040s

- You've already ordered it
- There's no returns (final sale)
- There's no escaping delivery
- You will pay later
- It's a package deal (no substitutions)
- Doesn't come with a manual

- *IPCC 5th AR: "Severe, Pervasive and Irreversible"*



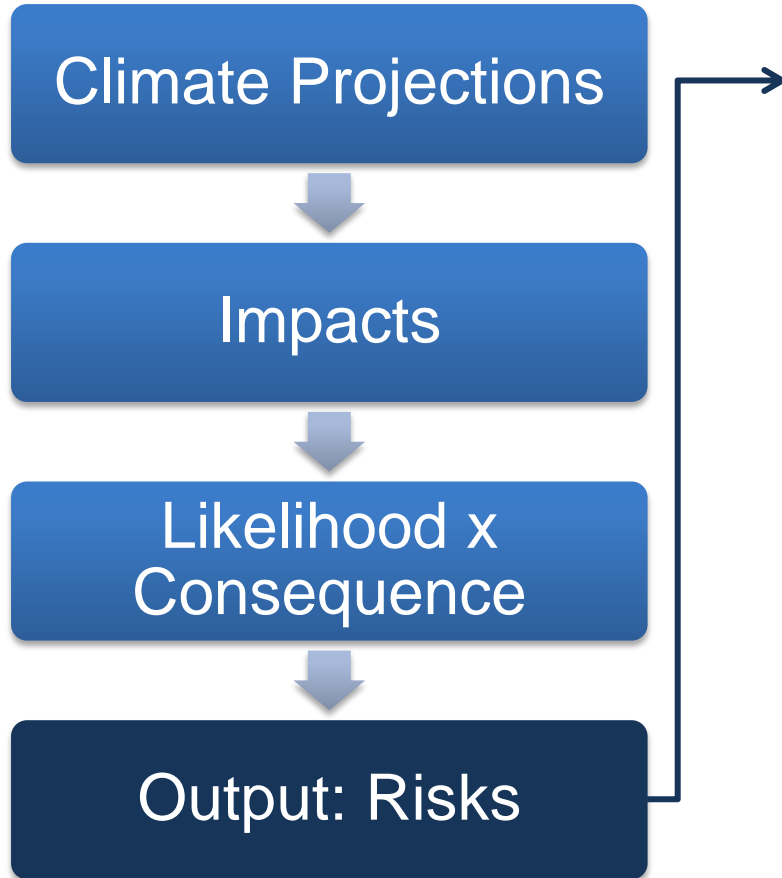
Background



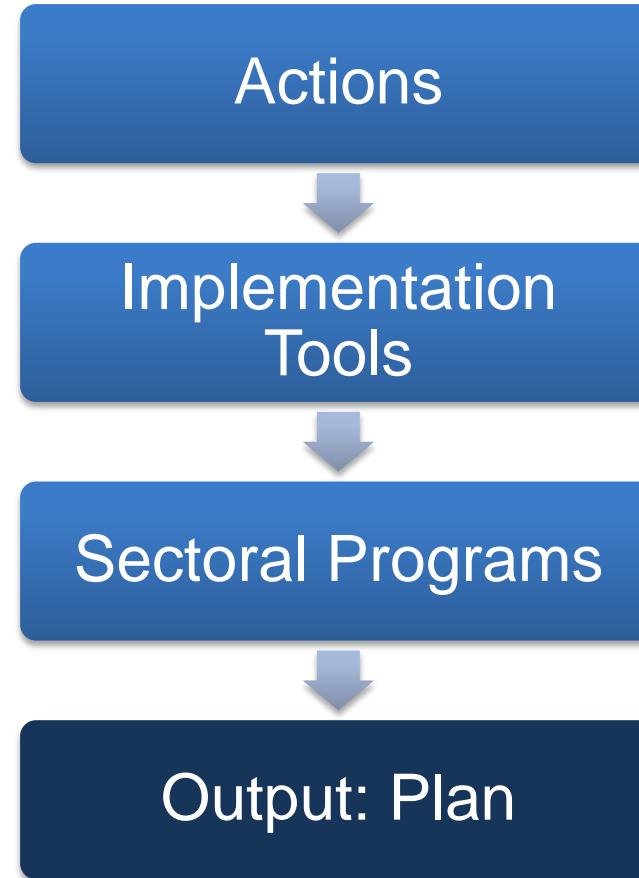
- Started in late 2013 with the SENES Study of future climate conditions in Durham region
- 7 Expert Task Forces, 62 experts from the Region of Durham, 8 local municipalities, 5 Conservation Authorities and 3 electrical utilities
- Completed in 2016; approved in principle by Regional Council Dec. 14, 2016
- Approved in principle by all local municipalities, CAs and electrical utilities in 2017
- 18 programs to be further jointly developed for approval and funding by responsible agencies
- DCCAP won FCM climate award in February 2018
- Recognized as “the gold standard”



Phase 1



Phase 2





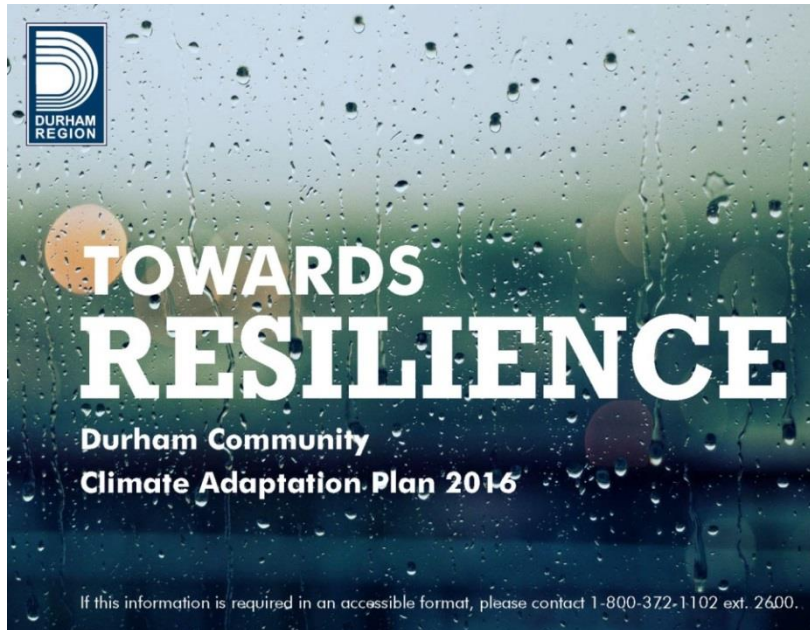
Legal Liability (3Ds x 2)

- Municipal decision makers (senior staff and elected officials) face civil liability for failing to anticipate changing weather and manage risks accordingly
- Protection against liability is the **demonstration of due diligence**
- **data, decisions, dedication**
- Don't have to **do** everything possible (do what's reasonable, make rational decisions)
- One additional benefit of an Adaptation Plan is to "keep the Mayor's ass out of jail"



The 3D Effect

One of these:



Can prevent this:





Municipalities Aren't the Only Ones on the Hook

- Liability of fossil fuel industry for Climate Change adaptation costs born by municipalities is being pursued
- A possible source of funds for adaptation
- Examples: NYC, Bolder CO, CA coastline cities, Victoria BC
- A legal hint: “nuisance” for changing the composition of the atmosphere



Discussion and Questions