

Welcome to the Dias...you know all about CEQA right?

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Presenters



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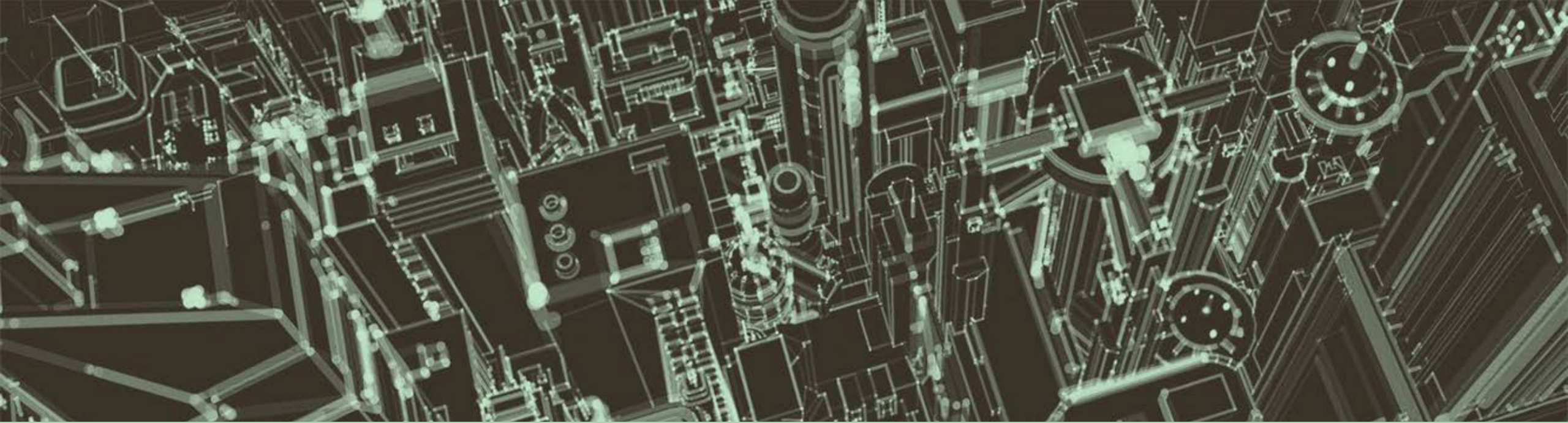
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Overview

- What's the point of CEQA?
- What is a mitigation measure?
- What do I really need to know?
- Myths, Pitfalls and Warnings



What's the point of CEQA?

Is all this really necessary?



What's the point of CEQA?

- Information about the probable effects of the project on the environment
- Lets you know the possible consequences of your decisions
- Requires solution to a project's environmental impacts if possible; or,
- To allow consideration of the project even if there is no solution

Its done by the time I get it, what can I do?

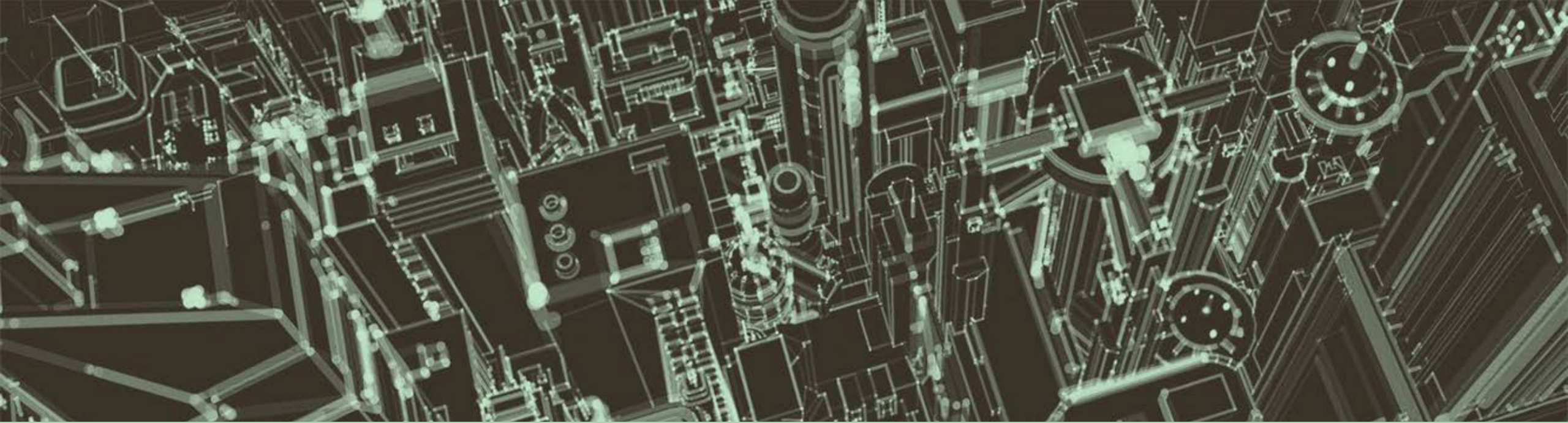
- CEQA is not 'done' until the project is approved
- Be the last set of eyes before the decision is made
- Give staff time to respond to the public comments
- Add your reasoning to the record

Understanding CEQA

- CEQA is part of the public disclosure process
- Includes predictions, estimates, modeling of possible environmental impacts
- The impacts are compared to a threshold, standard or community expectation
- Project modifications “mitigation” intended to address impacts
- Designed to require some thought about environmental consequences of a project
- Consider project impacts balanced with its benefits

What CEQA isn't...

- Perfect
- An advocate for a project
- The project itself
- A chance to fix existing problems
- An anthology of everything everywhere
- The analysis of 'worst case'



What is a mitigation measure?



What is a mitigation measure?

- A mitigation measure is an action to be taken to reduce or avoid a significant impact resulting from a proposed project.
 - Not a free hand
 - The solution must be roughly proportional to the project
- Mitigation cannot be proposed or required where there is no impact or a less than significant impact.

Rough Proportionality

Whether or not there is an essential nexus between the permit condition and legitimate state interest, and whether or not the degree of the exaction required by the permit condition bears the required relationship to the projected impact of the proposed development.



How is a mitigation measure drafted?

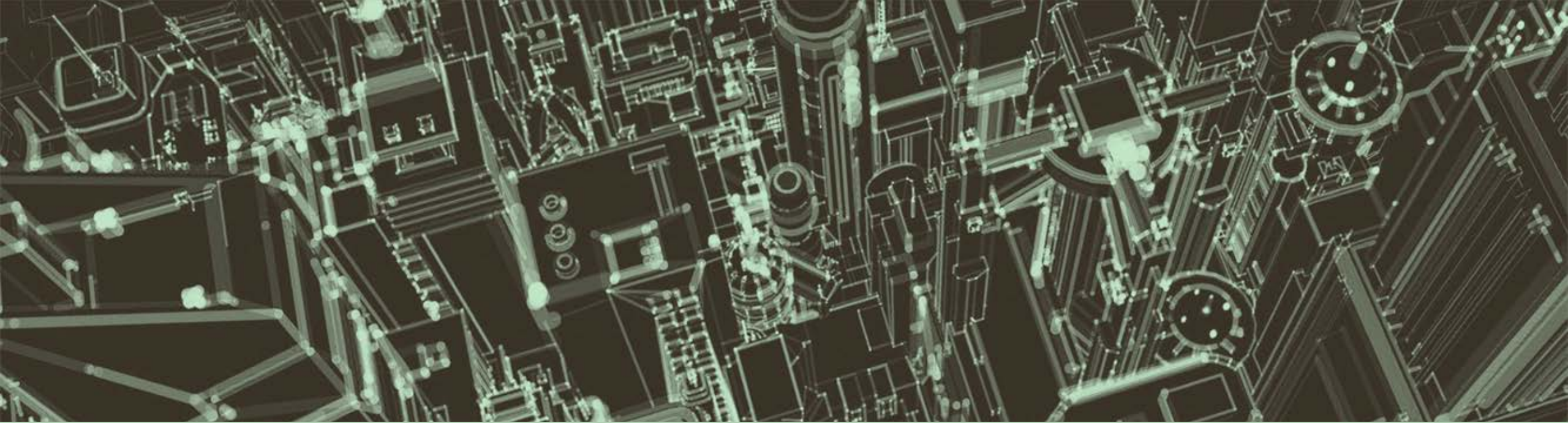
- First we determine what needs to be done to address the problem.
- See if there is a law or standard condition that addresses the impact.
- Scale the measure to mitigate the project impacts, not existing conditions.
- The mitigation measure is linked to an action (such as permits).
- Review the measure with the applicant.

Mitigation Measures must

- Be linked to an impact
- Be measurable and enforceable
- Be within the jurisdiction of the lead agency
- Be feasible
- Be monitored by the lead agency
- Be measurable
- Not simply be a fee paid
- Not do just another study

Conditions of Approval

- Linked specifically to the project, not to the applicant
- Ideally they are objectively measurable
- Be specific in intent and expected outcome
- Within the ability of the agency or applicant to enforce and monitor
- Further a governmental purpose
- Roughly proportional to the request



What do I Really Need to Know?

There's so much information



What do I really need to know?

What to Read

- Project Description
- Comment Letters & Response to Comments
- Impacts that lead to Mitigation
- Staff Report

What to Skim

- Introduction & Summary
- Methodology & Thresholds
- Appendices



Can I really do anything about it at this point?

- Yes.
- The CEQA document is a 'draft' until adopted or certified.
- Changes can be made to clarify impacts.
- Some changes may require recirculation for public review.
- If you think something should be changed, contact staff early.
- The information is supposed to be understandable.

Fair Argument Standard

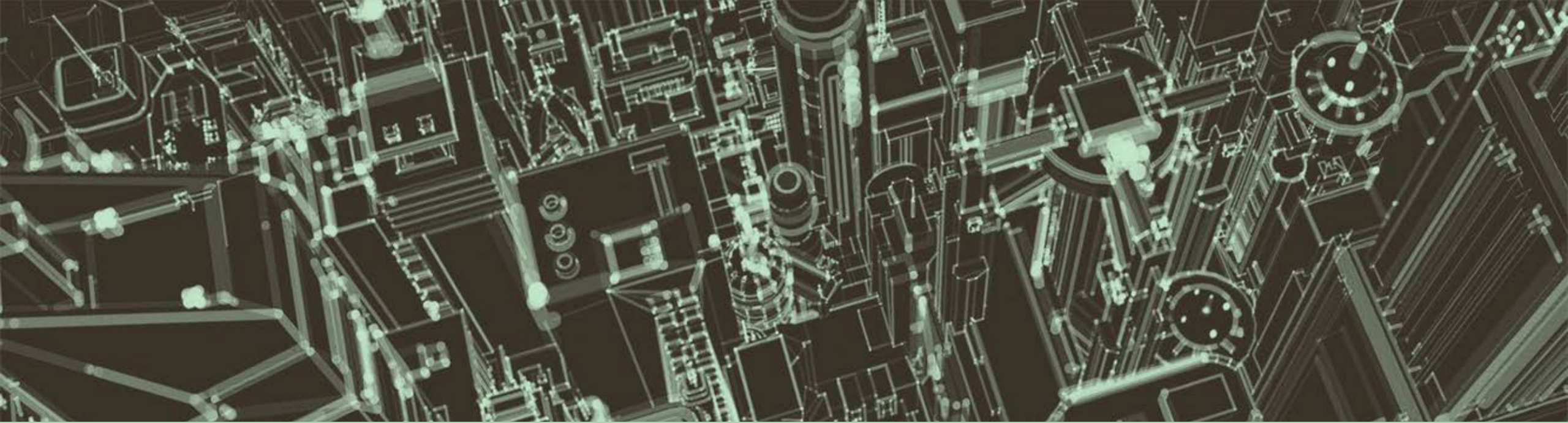
- When must an EIR be prepared?
 - When it can be fairly argued, based on substantial evidence, in light of the whole record, that a project may have a significant environmental effect.
 - Anyone can make the argument; they do not need to be an expert.

Substantial evidence?

- What it is:
 - Facts
 - Reasonable assumption predicated on facts
 - Expert opinion supported by facts
- What it isn't:
 - Argument
 - Speculation
 - Unsubstantiated opinion or narrative
 - Clearly inaccurate or erroneous information
 - Socioeconomic impact not linked to physical environmental impact

What if I don't like the results?

- Ensure that your 'dislike' is environmental and not project related
- Contact your staff lead early and explain your concern
- Anything you write becomes part of the CEQA record
- As a Commission you can reject the analysis as incomplete
- It's ok to say no, even if the project is environmentally acceptable



Myths, Pitfalls and Warnings

What we look for when we review these things...



EIR Myths

- The EIR will stop the project.
- The EIR will tell me how to vote on the project.
- The EIR will be more expensive than a mitigated negative declaration.
- The EIR will take longer and than a mitigated negative declaration.
- The EIR will be more thorough than a ND/MND.
- The EIR will be bulletproof.

Warning Terms!

“If feasible...”

Unclear modifiers: “large”, “minimal,” “temporary”

Impact findings other than those listed previously.
Examples we’ve seen: “Partially Mitigated,”
“Insignificant Impact,” “Minor Impact”

Bad: “The project would *only* affect a *small* portion of the site for a *temporary* period, resulting in a *minor impact*.”

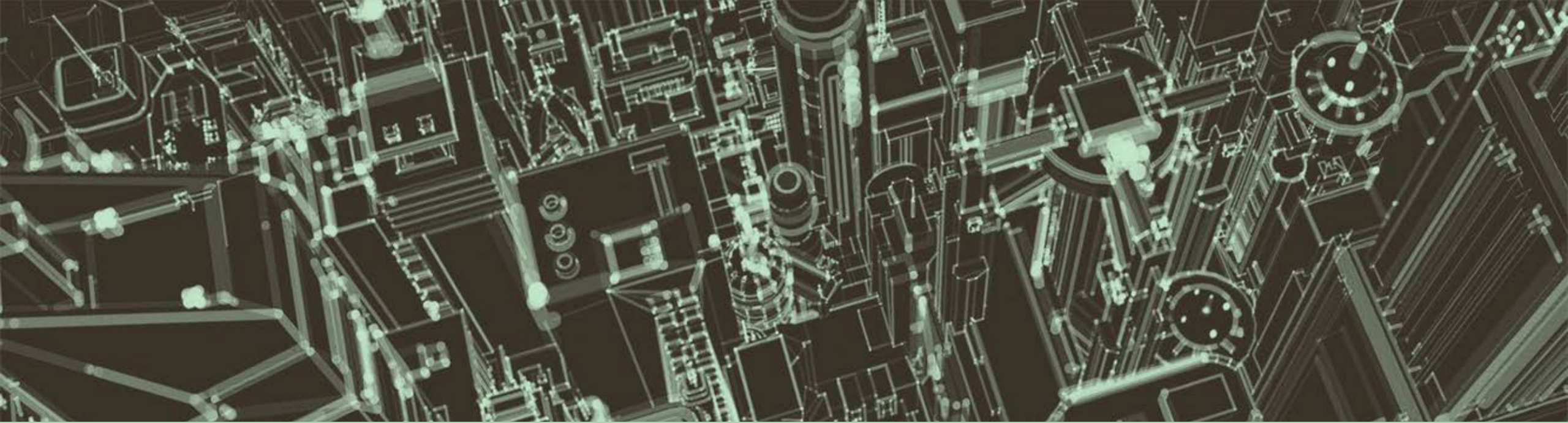
Better: “The project would affect 2 acres of the 10 acre site for approximately one year, resulting in a less than significant impact.”

Breathe, Late Hits Happen

- A “late hit” is a lengthy comment that arrives just before agency decision on a project.
 - Intentional delays
 - Inadvertently delays by requesting additional studies after the CEQA document has been completed
- Effective scoping and communication can prevent late hits.

Parting Thoughts...about CEQA

- It's changing regularly
- Courts show deference to agencies attempting to comply
- Short cuts usually aren't
- The CEQA process should not be mistaken for good planning
- Learn about how your agency complies with CEQA
- Every community, project and commission is different
- When in doubt, ask your staff



Questions?

