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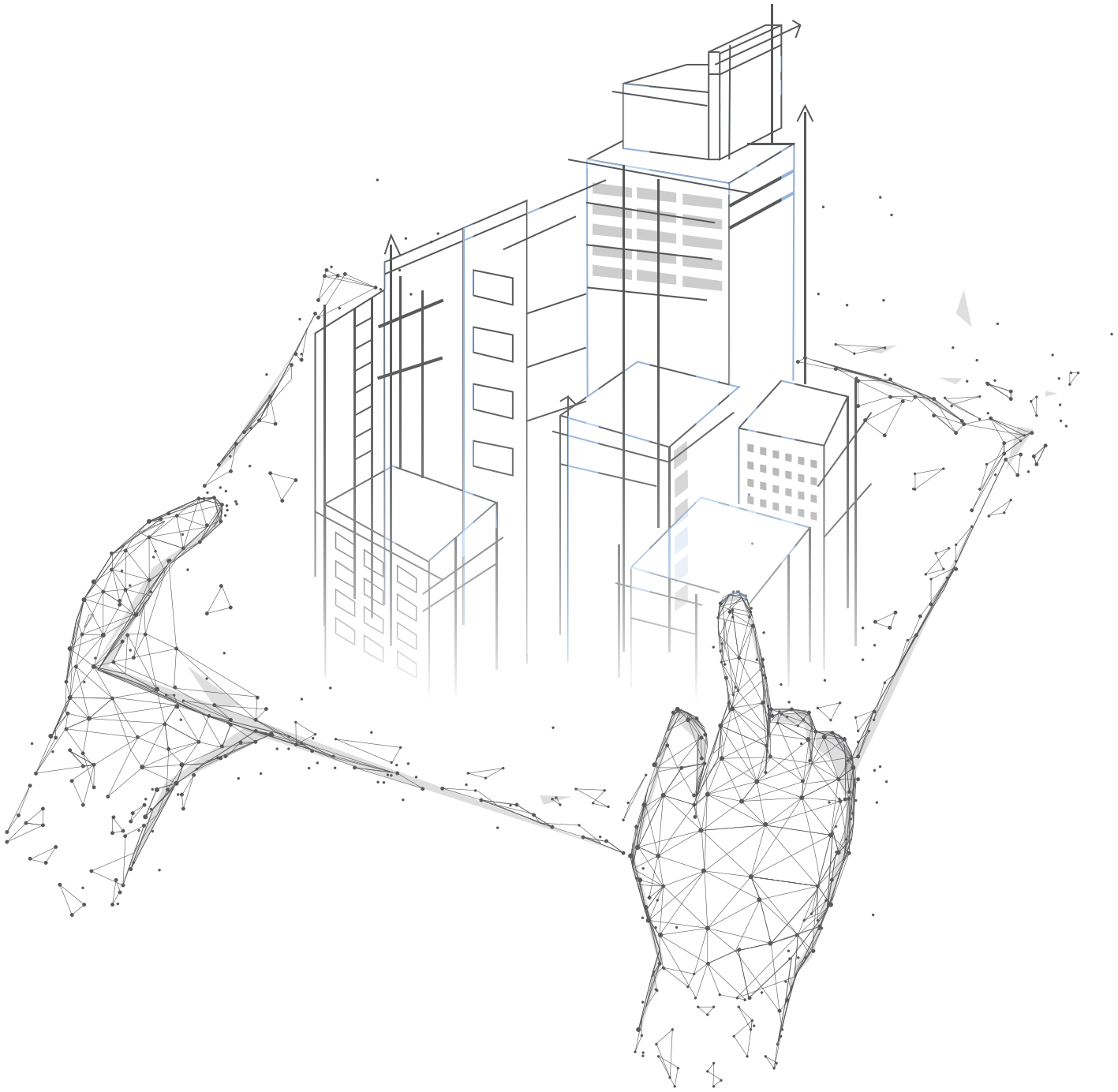
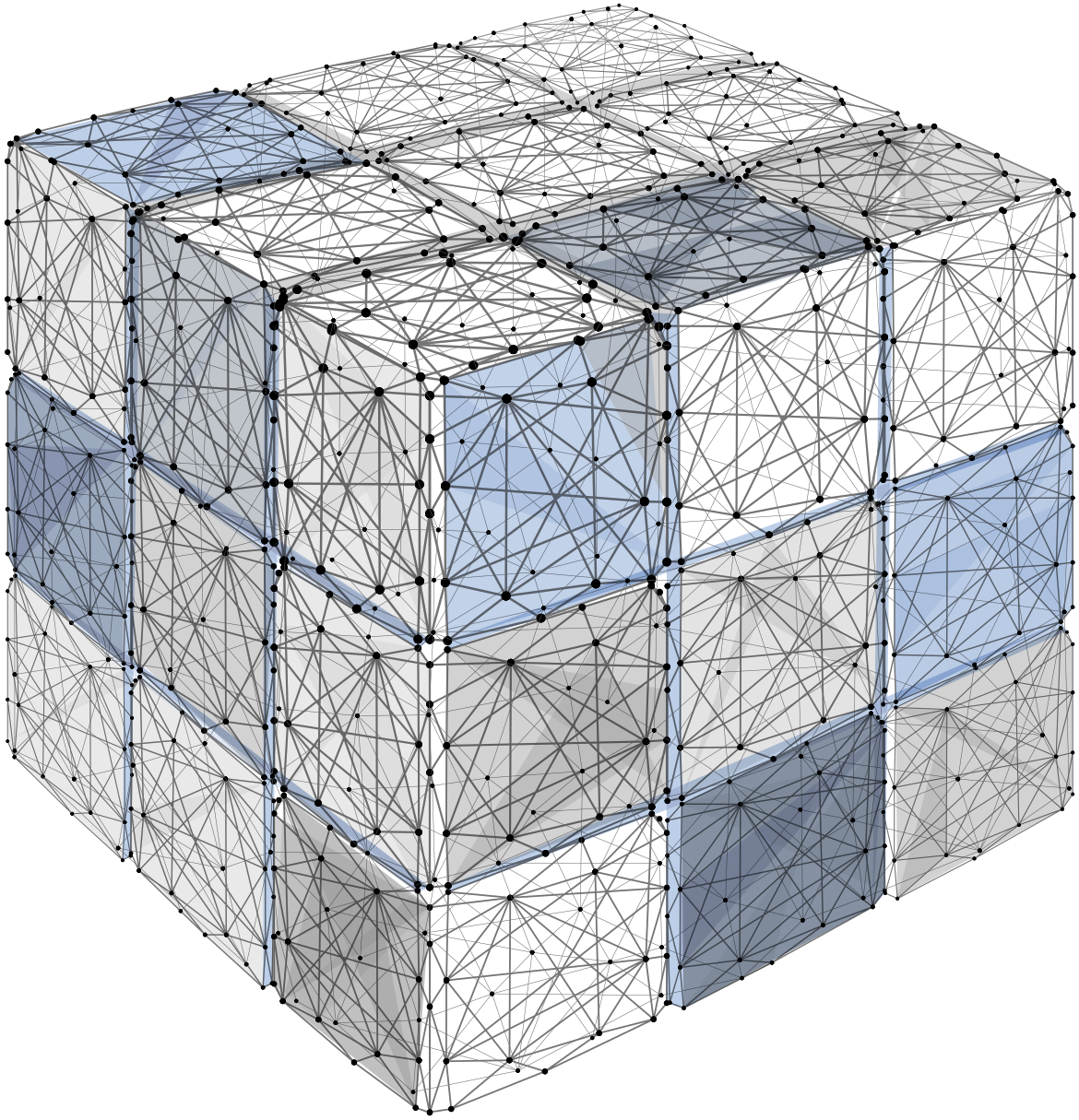
ALTERNATIVE STRATEGIES TO DEVELOP A SUSTAINABLE ESTATE

Summary of a roundtable discussion chaired by Sir Robert Naylor



Trowers & Hamlins and ETL (Essentia Trading Limited) were pleased to host a roundtable chaired by Sir Robert Naylor, independent adviser on estates to the Department of Health and Social Care. The panel included invited representatives from NHS Trusts, Foundation Trusts and clinical commissioning groups (CCGs), including sustainability and transformation partnership (STP) estates leads.



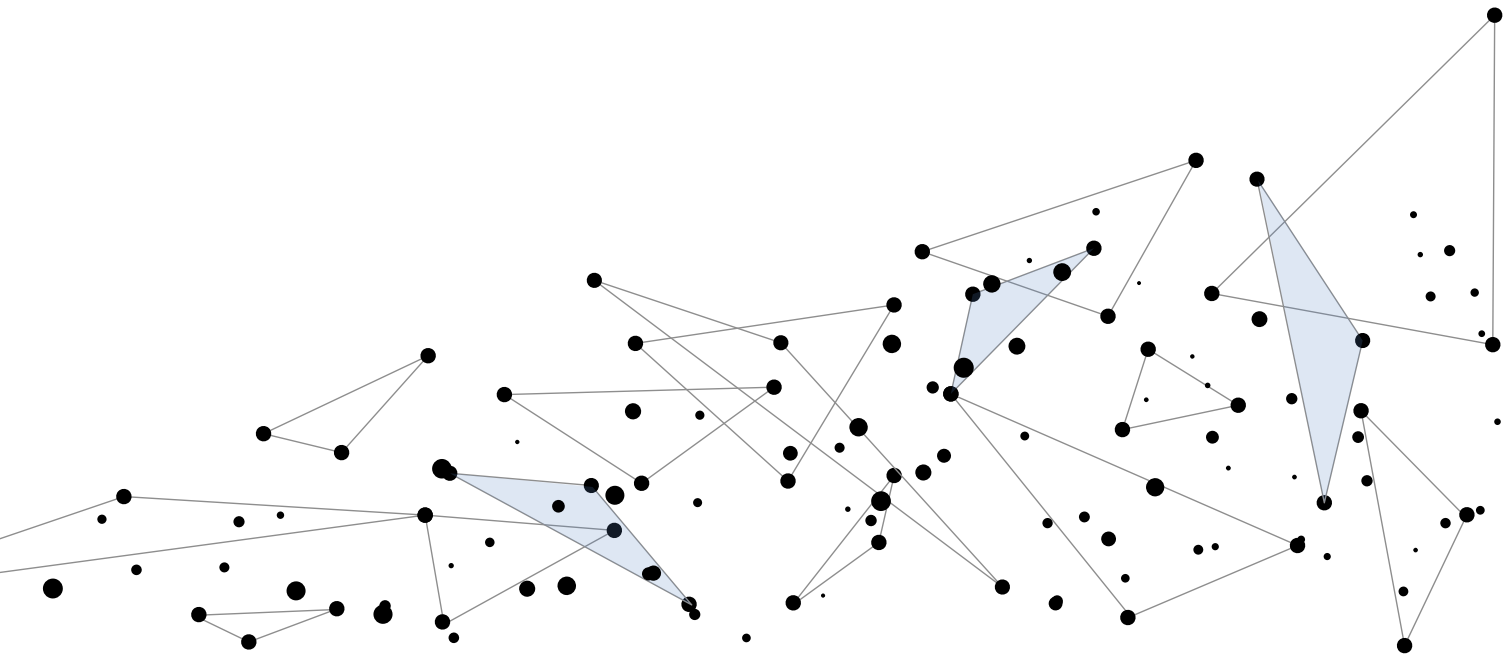
Key introductory points from Sir Robert Naylor

Following on from his Independent Review on the NHS Estate in 2017 to which the Government responded and accepted all of the recommendations in whole or in part, there are three key current issues:

- Capacity and capability are still limited.
- The Property Board is not independent, as a result there is not enough pressure to force change and transformation.
- Capital is still constrained – what little there is available is spread around the system, there are queries about what will fill the void in place of PFI, and Lord Prior demanding a £50bn NHS Bond was rejected. If this funding isn't made available then capital starved projects and backlog maintenance programmes will never get off the ground. It may take a high profile disaster before those centralised government funds are made available.

Many large projects are still unfunded but need to happen. London councils and Trusts are not working together as effectively as they could be in all cases, and there is huge competition for funds and grants – this is stifling the possibility of real transformation. There is a lot of private capital available but the routes to access it are still evolving.

The position is exacerbated by further rumoured capital to revenue transfers. There is concern over planned Capital Department Expenditure Limits (CDEL) and restrictions on capital, including the recently announced central request for all NHS organisations (Foundation Trusts (FTs) and non-FTs) to reduce current capital spend plans by 20%. This will result in escalating backlog issues and reducing funding is simply bottling up trouble for the future.



Discussion and key themes

By reference to the United States, in metropolitan areas a well-run cluster can have a big impact on the health economy and better patient outcomes. Size is important. Too big and it can get be bogged down in bureaucracy, too small and it won't have the impact and ability to be truly innovative.

Designing facilities and new healthcare systems often takes time. A huge amount of time is often invested in stakeholder engagement with senior clinicians – very often they will spend very little time in the finished facility due to retirement. Data can answer many of the questions and speed up the process. Also space needs to be designed to be more flexible so it doesn't become out-of-date soon after, or even before, it has been built. Hospitals are built for 60-years, and refurbished every 15 years. Is it better to use modular build and other approaches that comes with increased scope for innovation?

Some Trusts work with Local Authorities who will invest. However there are problems over accounting procedures. For example, if a Trust takes 25/30 year lease it hits CDEL in full in year one. Accounting procedures are a big problem – they stifle innovation. Even working with other public sector organisations like Local Government doesn't help. That said, Local Government seems to have a much better system and is freer to be creative. They often lead on One Public Estate projects.

Hilary Blackwell from Trowers & Hamlins pointed out that the land sale plus / forward funding model of land for buildings and bridging against future receipts under HBN00- 08 (commonly known as Estatecode) still works.

There was a view that Foundation Trusts in particular – given their wider powers – should just do the "right" thing and seek forgiveness rather than permission. In the past that has been the philosophy of some but it is not as straightforward a world these days so while that could be an approach it is perhaps not ideal.

This links to point about naysayers' culture or the illusion of it – there are never enough people with power to say yes, but plenty come forward to say no to change.

NHS bodies should think bigger / longer term like the MoD and One Public Estate, but the NHS business case process doesn't fit some schemes. Trusts could be bolder and think bigger, what it means is actually thinking longer term and the acute side can find that challenging. Local Authorities and other parts of the public sector approach things in the longer term much more systematically. A question arises as to whether this is about what is required by law and policy in all cases, or is just about making a change in mind set.

Peter Ward provided an overview of the work underway at Guys and St Thomas' supported by ETL to develop alternative approach to estate investment which included the development of a flexible estate and developer led shell and core approach, discussions were underway with the Treasury about the CDEL implications and funding mechanisms.

> *"There are some key themes coming out of this discussion, to go back to the STP plans and progress the prioritised projects, to consider taking advantage of the new opportunity around NHSPS/ CHP assets and look at political support, taking the longer term view. In all of this a clearly spelt out and worked out business case will be key to gaining the necessary approvals."*
>
> Hilary Blackwell, Partner – Trowers & Hamlins

David Phillipskirk from ETL commented that it was clear that exchequer funding would continue to become scarcer and that without taking this alternative approach there was currently no credible NHS Plan B. Some of the work ETL had been supporting was helping the NHS to generate funding through efficiency improvements and via estate rationalisation, and that NHS organisations may need to think differently in the new landscape and be more adventurous in their approach.

On a political level is it better to have Local Authority pension fund investment than sovereign wealth funds? There are some good examples of both taking place.

One STP lead stated the need for a better defined clinical strategy; there are duplicate services in multiple places e.g. pathology and a need to consolidate. Integrated Care Systems (ICSs) are the right approach, but how to manage the risk for Trusts?

An outer London participant commented that they can see why big projects like Project Oriel (the proposed relocation of Moorfields Eye Hospital) get funding but what about other sites with lower land values? There is more clinical risk if you can't spend capital.

A major teaching hospital agreed innovation has stopped because of technical accounting issues that people don't understand. But if there were a big clinical risk his Trust would spend anyway. Trusts need to apply pressure on government to resolve these blockages.

Looking at user pays models for non-core services was suggested. A good example is the renting out of space in the Guy's Cancer Centre as a Private Patients Unit (PPU). There was a concern about public perception but patients are fine with it.

Sir Robert is hoping for a good result from deferred Spending Review after leadership election / Brexit has been addressed. It was agreed that the Brexit debate is capturing all the headlines so there is little opportunity to make the 'desperate need for NHS investment' case.

We also discussed the new opportunity for Trusts with STP support to apply for transfer of NHS Property Service issues (NHS PS) / Community Health Partnership (CHP) assets – the general conclusion was that it would be a good idea to explore as a step towards integrated care systems (ICSs).

"It was great to be part of such a topical event and to discuss the issued being faced across the health system. What is abundantly clear is the urgent need for capital injection in order to address current challenges and support transformation. Some of the ideas discussed may offer alternatives to traditional exchequer funding and so unlock much needed investments; but it was recognised there are still accounting barriers to overcome."

David Phillipskirk, Commercial Director – ETL

Conclusions

- There is a real need to spend capital on backlog maintenance and estate reconfiguration – it is wasteful to have repeated services over multiple sites.
- Accounting rules should be simplified and capital to revenue transfers stopped.
- The brave may carry on anyway – where they have the cash or can partner e.g. with Local Authorities – the key is to take the public with you and address the business case requirements properly and in good time.
- Political allies can help.

Since we held the roundtable NHS England and NHS Improvement have issued the Long Term Plan Implementation Framework and also the General Practice Premises Policy Review, both of which include the requirement for further capital planning but are contingent on the result of the Spending Review.

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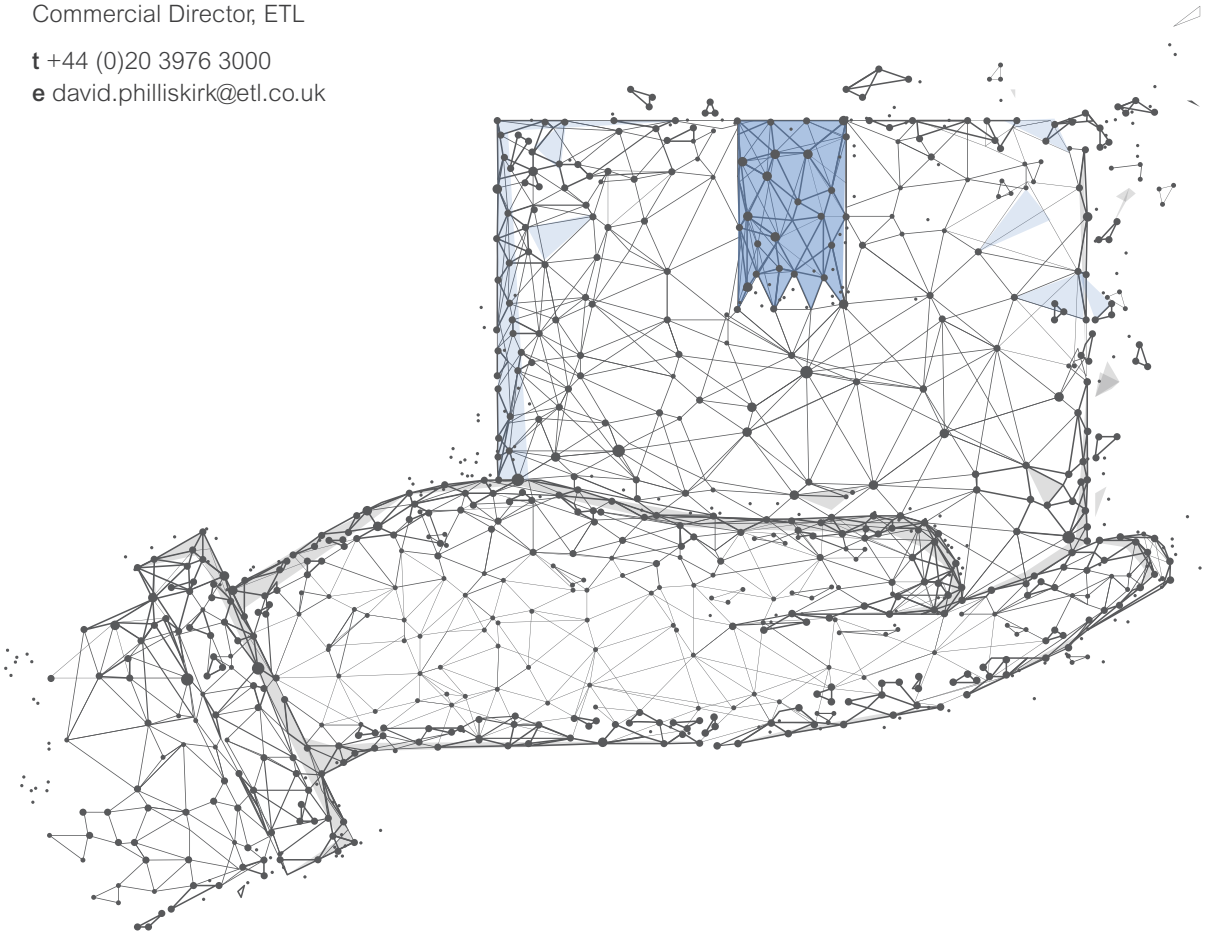

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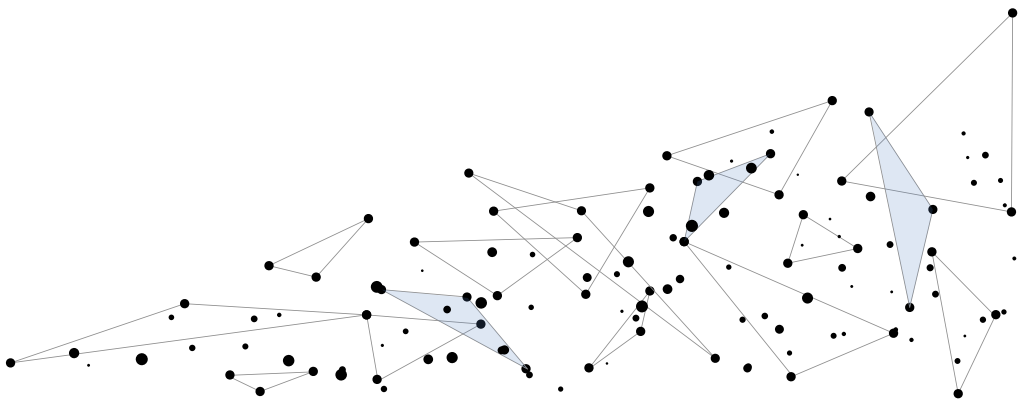

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