

DETERMINATION OF MERGER NOTIFICATION M/22/067 – THORNTONS RECYCLING/CARDUCCI HOLDINGS (THE CITY BIN CO)

Section 22 of the Competition Act 2002

Proposed acquisition by Padraig Thornton Waste Disposal Limited of sole control of Carducci Holdings DAC

Dated 13 July 2023

Determination

Pursuant to section 20(3) of the Competition Act 2002, as amended (the “Act”), Padraig Thornton Waste Disposal Limited (“Thorntons Recycling”) has submitted to the Competition and Consumer Protection Commission (the “Commission”) the proposals set out below regarding measures to be taken to ameliorate any effects of the proposed acquisition on competition in markets for goods or services in the State, with a view to the said proposals becoming binding on Thorntons Recycling.

The Commission has taken the proposals into account and, in light of the said proposals (which form part of the basis of its determination), has determined, in accordance with section 22(3)(a) of the Act, that the result of the proposed acquisition whereby Thorntons Recycling would acquire sole control of Carducci Holdings DAC (“Carducci”), and thereby also sole control of Carducci’s indirectly wholly-owned subsidiary, The City Bin Co Unlimited Company, will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect. Before making a determination in this matter, the Commission, in accordance with section 22(8) of the Act, had regard to any relevant international obligations of the State, and concluded that there were none.

For the Competition and Consumer Protection Commission

Brian McHugh
Member
Competition and Consumer Protection Commission

M/22/067 - Thorntons Recycling/Carducci Holdings (The City Bin Co)

Proposals submitted by Thorntons Recycling to the CCPC

12 July 2023

Recitals

- a. On 16 December 2022, the proposed acquisition by Thorntons Recycling of Carducci was notified to the CCPC under Part 3 of the Act.
- b. Thorntons Recycling and Carducci are both active in Domestic Waste Collection Services in the State.
- c. On 31 May 2023, the CCPC determined in accordance with Section 21(2)(b) of the Act that it intended to carry out an investigation under Section 22 of the Act in relation to the Proposed Transaction.
- d. Pursuant to Section 20(3) of the Act, Thorntons Recycling has submitted the following Proposals to the CCPC for the purpose of ameliorating any effects of the Proposed Transaction on competition in markets for goods or services in the State, with a view to the Proposals becoming binding on Thorntons Recycling on the date of the Determination.
- e. Under these Proposals, Thorntons Recycling has agreed with the CCPC to commit to sell the Divestment Package in accordance with the terms and procedures set out in these Proposals.
- f. Prior to the date of the Determination, the following has occurred:
 - a. Thorntons Recycling has identified [REDACTED] and [REDACTED] as Suitable Purchasers of the Divestment Package;
 - b. Thorntons Recycling has entered into non-binding Heads of Agreement with [REDACTED] and [REDACTED] for the sale of the Divestment Package.

Definitions

"Act" – means the Competition Act 2002, as amended;

"[REDACTED]" – means any or all of [REDACTED] (registered number [REDACTED]), whose registered office is at [REDACTED], its subsidiaries, representatives, franchisees and agents and all the undertakings that they control or have controlled either directly or indirectly, solely or jointly. For the purposes of this definition, "control" and its variants have the meaning ascribed by Section 16(2) of the Act;

"[REDACTED]" – means any or all of [REDACTED] (registered number [REDACTED]), whose registered office is at [REDACTED], its subsidiaries, representatives, franchisees and agents and all the undertakings that they control or have controlled either directly or indirectly, solely or jointly. For the purposes of this definition, "control" and its variants have the meaning ascribed by Section 16(2) of the Act;

"Carducci" – means any or all of Carducci Holdings Designated Activity Company (registered number 576342), whose registered office is at Oranmore Business Park, Oranmore Co. Galway, its subsidiaries, representatives, franchisees and agents and all the undertakings that they control or have controlled either directly or indirectly, solely or jointly. For the purposes of this definition, "control" and its variants

have the meaning ascribed by Section 16(2) of the Act, and Carducci includes for the avoidance of doubt The City Bin Co;

"**CCPC**" – means the Competition and Consumer Protection Commission;

"**Completion**" – means completion of the Proposed Transaction in accordance with the terms of the Share Purchase Agreement;

"**Determination**" – means the Determination of the CCPC pursuant to Section 22(3)(a) of the Act that the Proposed Transaction may be put into effect;

"**Divestment Customers**"— means, subject to paragraphs 22 and 23, such number of customers as shall be selected by Thorntons Recycling, in consultation with and with the consent of the purchaser(s) of the Divestment Package, from the customers within the Overlapping Areas to whom Thorntons Recycling and/or The City Bin Co provide Domestic Waste Collection Services on the date of the Determination as set out in the Appendix;

"**Divestment Package**" – means the business consisting of the items listed in the Appendix;

"**Domestic Waste Collection Services**" – means waste collection services provided to individual domestic households, including without limitation to detached houses, semi-detached houses, terraced houses, bedsits and apartments in converted houses or commercial buildings, but excluding waste collection services provided to purpose-built apartment complexes;

"**Heads of Agreement**" – means the non-binding Heads of Agreement entered into between Thorntons Recycling and [REDACTED] on 7 July 2023 and between Thorntons Recycling and [REDACTED] on 7 July 2023 which relate to the proposed acquisition by [REDACTED] or [REDACTED] of the Divestment Package;

"**Mandate**" – means the mandate agreement to be entered into between Thorntons Recycling and the Trustee in accordance with paragraph 31 of these Proposals, the terms of which shall have previously been agreed with the CCPC;

"**Material Change**" – means a change whereby a purchaser of the Divestment Package no longer fulfils the requirements of a "Suitable Purchaser", as defined below;

"**Merger Notification Form**" – means the merger notification form relating to the Proposed Transaction, as submitted to the CCPC on 16 December 2022;

"**Overlapping Areas**" – means the coloured areas described in the Appendix below and shown in the accompanying maps in which both Thorntons Recycling and The City Bin Co provide Domestic Waste Collection Services;

"**Parties**" – refers to Thorntons Recycling and Carducci (including The City Bin Co);

"**Proposed Transaction**" – means the proposed acquisition by Thorntons Recycling of Carducci as notified to the CCPC on 16 December 2022;

"**Proposed Trustee**" – has the meaning ascribed to it in paragraph 28 of these Proposals;

"**Share Purchase Agreement**" – means the Agreement between Thorntons Recycling and the sellers of Carducci, dated 28 July 2022, a copy of which was provided to the CCPC with the Merger Notification Form.

"Suitable Purchaser" – means a purchaser who meets all of the following criteria:

- a. the acquisition by the purchaser of the Divestment Package would not be likely to create *prima facie* competition concerns;
- b. the acquisition by the purchaser of the Divestment Package would be on terms and conditions which would not be likely to create *prima facie* competition concerns;
- c. the purchaser (or, in the case of separate purchasers, each purchaser) is unconnected to, and independent of, both Thorntons Recycling and Carducci/The City Bin Co;
- d. the purchaser (or, in the case of separate purchasers, each purchaser) is able to continue to operate the Divestment Package (or, in the case of separate purchasers, the portion thereof to be purchased by the relevant purchaser) on a financially viable basis, including by providing Domestic Waste Collection Services to the Divestment Customers; and
- e. the purchaser (or, in the case of separate purchasers, each purchaser) is reasonably likely to obtain all permits or access to assets required to provide Domestic Waste Collection Services to the Divestment Customers.

"The City Bin Co" – means any or all of The City Bin Co Unlimited Company, a private unlimited company ultimately owned and controlled by Carducci (registered number 255472), whose registered office is at Unit 6, Oranmore Business Park, Oranmore, Co. Galway, its subsidiaries, representatives, franchisees and agents and all the undertakings that they control or have controlled either directly or indirectly, solely or jointly. For the purposes of this definition, "control" and its variants have the meaning ascribed by Section 16(2) of the Act;

"The State" – means the Republic of Ireland;

"Thorntons Recycling" – means any or all of Pdraig Thornton Waste Disposal Limited, a private company limited by shares incorporated in Ireland (registered number 72366), whose registered office is at Unit S3B Henry Road, Park West Business Park, Dublin 12, Dublin, its subsidiaries, representatives, franchisees and agents and all the undertakings that they control or have controlled either directly or indirectly, solely or jointly. For the purposes of this definition, "control" and its variants have the meaning ascribed by Section 16(2) of the Act;

"Trustee" – means the trustee approved, or deemed to have been approved, by the CCPC with whom Thorntons Recycling shall enter into the Mandate in accordance with paragraph 31 of these Proposals; and

"Trustee Reports" – has the meaning ascribed to it in paragraph 33(a) of these Proposals.

A. The Proposal to Divest

1. Thorntons Recycling undertakes, subject to the provisions set out herein, to effect the sale of the Divestment Package to [REDACTED] or [REDACTED] within [REDACTED] of the date of the Determination.
2. Thorntons Recycling shall immediately inform the CCPC if [REDACTED] or [REDACTED] exercises its rights in accordance with the Heads of Agreement to decide not to proceed with the acquisition of the Divestment Package.
3. Thorntons Recycling shall be deemed to have complied with paragraph 1 above if, within

██████████ from the Determination, it has entered into a binding contract for the sale of the Divestment Package to ██████████ or ██████████ (subject to due diligence, regulatory permits and any other necessary conditions not within the control of Thorntons Recycling or ██████████ or ██████████ provided that such sale is completed within ██████████ from the date of the binding contract.

4. Thorntons Recycling shall immediately inform the CCPC if, having entered into a binding contract with Thorntons Recycling for the acquisition of the Divestment Package, ██████████ or ██████████ exercises any relevant rights it has pursuant to such binding contract not to proceed with the acquisition of the Divestment Package.
5. When Thorntons Recycling and ██████████ or ██████████ have entered into a binding contract for the sale of the Divestment Package, Thorntons Recycling shall submit to the Trustee and the CCPC a copy of the binding contract together with a fully documented and reasoned report which enables the Trustee and the CCPC to verify that the conditions laid down in these Proposals are fulfilled and that there has been no Material Change to Thorntons Recycling's knowledge since the Determination, subject to the CCPC agreeing to keep confidential all such information received.
6. Within ██████████ of the receipt by the Trustee and the CCPC of the binding contract for the sale of the Divestment Package and accompanying fully documented and reasoned report in accordance with paragraph 5, the CCPC shall communicate in writing its view as to whether the conditions laid down in these Proposals have been fulfilled and, in particular, as to whether there has been any Material Change as provided for in paragraph 5. If the CCPC does not communicate its approval or non-approval within ██████████ of receipt as aforesaid, such approval shall be deemed to have been given unconditionally.
7. Thorntons Recycling recognises that, if at any time prior to the completion of the sale of the Divestment Package to ██████████ or ██████████, the CCPC reasonably considers on the basis of information available to it that there has been a Material Change, the CCPC may withdraw its approval of ██████████ and / or ██████████ as a Suitable Purchaser of the Divestment Package. In the event that the CCPC withdraws its approval of ██████████ and / or ██████████ as a Suitable Purchaser of the Divestment Package as provided for in this paragraph, the procedure provided for in paragraph 8 of these Proposals shall be followed.

B. Divestment by Thorntons Recycling to an Alternative Purchaser or Purchasers

8. Thorntons Recycling undertakes, subject to the provisions set out herein, to effect the sale of the Divestment Package to an alternative purchaser or purchasers approved by the CCPC (whose approval shall not be unreasonably withheld) in the following circumstances, such sale to be effected within ██████████ of the occurrence of any one of these events:
 - a. if the CCPC withdraws its approval of the suitability of ██████████ and / or ██████████ as a purchaser of the Divestment Package for the reasons referred to in paragraph 7 of these Proposals;
 - b. if Thorntons Recycling informs the CCPC, pursuant to paragraph 2 of these Proposals, that ██████████ and / or ██████████ has exercised its rights in accordance with the Heads of Agreement not to proceed with the acquisition of the Divestment Package;

- c. if [REDACTED] (or such longer period as may be agreed by the CCPC) have elapsed after the date of the Determination without Thorntons Recycling having entered into a binding agreement with [REDACTED] or [REDACTED] for the disposal of the Divestment Package; or
 - d. if, having entered into a binding agreement with [REDACTED] or [REDACTED] [REDACTED] for the acquisition of the Divestment Package, Thorntons Recycling informs the CCPC, pursuant to paragraph 4 of these Proposals, that [REDACTED] or [REDACTED] has exercised its rights pursuant to such binding agreement not to proceed with the acquisition of the Divestment Package.
9. Thorntons Recycling undertakes that the sale of the Divestment Package shall be upon such conditions as the CCPC may reasonably consider proper and that the sale of the Divestment Package to a prospective purchaser (or purchasers) must not be likely to create, in light of information available to the CCPC, *prima facie* competition concerns.
10. Thorntons Recycling undertakes that for a prospective purchaser (or purchasers) to obtain the CCPC's approval, such purchaser (or purchasers) shall:
- a. be unconnected to and independent of Thorntons Recycling and Carducci (including for the avoidance of doubt The City Bin Co);
 - b. be able to maintain and develop the Divestment Package as an active competitive force, including by providing Domestic Waste Collection Services to the Divestment Customers on a financially viable basis; and
 - c. have, or be reasonably likely to obtain, all permits and access to assets required to provide Domestic Waste Collection Services to the Divestment Customers.
11. Thorntons Recycling shall be deemed to have complied with paragraph 8 of these Proposals if, within a [REDACTED] period after the occurrence of any one of the events set out in paragraph 8 above (or such longer period as may be allowed by the CCPC or as may result from the delays referred to in paragraph 16 below), it has entered into a binding contract for the sale of the Divestment Package to a single prospective purchaser, or alternatively to separate prospective purchasers (subject to due diligence, regulatory permits and any other conditions not within the control of Thorntons Recycling or the purchaser(s)), provided that each such sale is (or sales are) completed within a [REDACTED] period from the date of the relevant binding contract (or such longer period as may be allowed by the CCPC).
12. Thorntons Recycling shall immediately inform the Trustee and the CCPC in writing if, having entered into a binding contract with Thorntons Recycling for the acquisition of the Divestment Package, a prospective purchaser exercises any relevant rights it has pursuant to the binding contract not to proceed with the proposed acquisition.
13. Thorntons Recycling shall:
- a. promptly inform the Trustee and the CCPC in writing, with a fully documented and reasoned proposal, of any prospective purchaser who indicates a serious desire to purchase the Divestment Package, and to whom Thorntons Recycling is seriously considering the sale of the Divestment Package, in order to enable the Trustee and the CCPC to verify the suitability of the prospective purchaser or purchasers; and
 - b. when the parties have entered into a binding contract for the sale of the Divestment Package, submit a fully documented and reasoned report relating to the sale to the

Trustee and the CCPC (including a copy of the binding contract) in order to enable the Trustee and the CCPC to verify that the conditions laid down in these Proposals are fulfilled and that there has been no Material Change since the CCPC assessed that purchaser's suitability under paragraph 13(a), subject to the CCPC agreeing to keep confidential all such information received.

14. Within five (5) working days of receipt of a fully documented and reasoned proposal from Thorntons Recycling in accordance with paragraph 13(a), the Trustee shall provide a written report to the CCPC verifying the suitability of the prospective purchaser. The CCPC shall communicate in writing its approval or non-approval of a prospective purchaser within ten (10) working days of receipt of a fully documented and reasoned proposal from Thorntons Recycling identifying that purchaser in accordance with paragraph 13(a).
15. Within five (5) working days of receipt of a fully documented and reasoned report (including a copy of the binding contract) from Thorntons Recycling in accordance with paragraph 13(b), the Trustee shall provide a report to the CCPC verifying whether the requirements set out in these Proposals have been fulfilled and that there has been no Material Change in the status of the prospective purchaser. Within ten (10) working days of receipt of a copy of a fully documented and reasoned report (including a copy of the binding contract) in accordance with paragraph 13(b), the CCPC shall communicate in writing its view as to whether there has been any Material Change in the status of the prospective purchaser and whether the conditions laid down in these Proposals have been fulfilled as provided for in paragraph 13(b).
16. Failure of the CCPC to communicate its approval or non-approval of a prospective purchaser within ten (10) working days of the receipt by the CCPC of a fully documented and reasoned proposal and/or report in accordance with paragraph 13(a) or paragraph 13(b), as the case may be, shall in each case suspend the running of the [REDACTED] established in paragraph 8 above until the CCPC communicates its approval or non-approval. If the CCPC does not communicate its approval or non-approval within twenty (20) working days of receipt as aforesaid, such approval shall be deemed to have been given unconditionally.
17. In the case of a plurality of offers from prospective purchasers to whom the CCPC does not object, Thorntons Recycling shall be free to accept any offer or to select the offer it considers best.
18. The sale of the Divestment Package shall not prevent or delay the Completion.

C. The Divestment Package

19. Thorntons Recycling undertakes to dispose of the entirety of the Divestment Package as it is described in the Appendix. Thorntons Recycling shall take all necessary actions, including procuring any necessary actions by Carducci and/or The City Bin Co, to ensure the disposal of the entirety of the Divestment Package.
20. Thorntons Recycling further undertakes that, for a period of [REDACTED] from the date of completion of the sale of the Divestment Package in accordance with paragraph 1, or, as applicable, paragraph 8 of these Proposals, Thorntons Recycling will not actively canvass or solicit or conduct marketing activities targeted at any Divestment Customer in relation to the provision of Domestic Waste Collection Services, such as by way of (without limitation) direct mail (including the sending of unsolicited emails), telephone sales, or promotions targeted at the Divestment Customers. For the avoidance of doubt, this does not preclude Thorntons Recycling from responding to an unsolicited request from a Divestment Customer to provide Domestic Waste Collection Services or from conducting

general marketing activities which are not specifically targeted at the Divestment Customers. During the relevant [REDACTED] period referred to in this paragraph 20 of these Proposals (the “**Non-solicitation Period**”):

- a. in the event that a Divestment Customer submits an unsolicited request to Thorntons Recycling for a quotation for the provision of Domestic Waste Collection Services by Thorntons Recycling, Thorntons Recycling shall respond in writing in a timely manner (the “**Offer**”). Thorntons Recycling shall not, during the Non-solicitation Period, subsequently amend the price or terms and conditions for the provision of the Domestic Waste Collection Services contained in the Offer, although Thorntons Recycling may provide clarifications on the Offer, which must also be in writing, in response to a specific query received from that same Divestment Customer. Thorntons Recycling shall not comment on the prices or terms and conditions offered by a competing supplier of Domestic Waste Collection Services if asked to do so by a Divestment Customer. Thorntons Recycling shall retain copies of the Offer and written responses for a period of [REDACTED] after communication to the relevant Divestment Customer and must provide copies of the Offer and written responses to the CCPC upon the request of the CCPC;
 - b. Thorntons Recycling shall submit to the CCPC within [REDACTED] after the date of the Determination a written report (the “**First Report**”) demonstrating Thorntons Recycling’s compliance with its obligations set out in paragraph 20(a) of these Proposals since the date of the Determination. Thorntons Recycling shall submit to the CCPC within [REDACTED] after the date of submission of the First Report and at intervals of [REDACTED] thereafter, a written report (each, a “**Compliance Report**”) demonstrating Thorntons Recycling’s continued compliance with its obligations set out in paragraph 20(a) of these Proposals until the expiry of [REDACTED] after the Non-solicitation Period. The First Report and each subsequent Compliance Report shall include the following: (i) the total number of unsolicited requests for a quotation for the provision of Domestic Waste Collection Services received by Thorntons Recycling from Divestment Customers during the preceding [REDACTED] period; (ii) how Thorntons Recycling dealt with each such unsolicited request received from a Divestment Customer during the preceding [REDACTED] period, including the price and terms and conditions for the provision of Domestic Waste Collection Services contained in any Offer made by Thorntons Recycling to a Divestment Customer and clarifications on any Offer made by Thorntons Recycling; (iii) the total number of Divestment Customers who, as a result of an unsolicited request to Thorntons Recycling, commenced receiving Domestic Waste Collection Services from Thorntons Recycling during the preceding [REDACTED] period.
21. Thorntons Recycling confirms that it will not impose, as a condition of sale of the Divestment Package, an obligation on the purchaser to acquire any associated assets or staff from Thorntons Recycling (except where such assets or staff are requested by the purchaser to be included and agreed by Thorntons Recycling).

Interim Position of the Divestment Package

22. Following the Determination and pending the sale of the Divestment Package, Thorntons Recycling undertakes to continue to provide (or, if applicable, to procure the continued provision by Carducci and/or The City Bin Co of) Domestic Waste Collection Services to the Divestment Customers and to preserve the economic viability, marketability, and competitiveness of the Divestment Package until the date of divestment in accordance with good commercial practice.

23. Thorntons Recycling undertakes to protect the value of the Divestment Package during the period from the date of the Determination until the date of divestment of the Divestment Package, including by during that period maintaining (and/or, if applicable, procuring the maintenance by Carducci and/or The City Bin Co of) the nature, description, range and standard of, the Domestic Waste Collection Services provided to the Divestment Customers, and, more specifically:
- a. to continue to operate the collection routes that service the Divestment Customers at the date of the Determination;
 - b. to provide an equivalent standard of service (including the frequency of collection and the appointed day of collection) to the Divestment Customers as provided by Thorntons Recycling and/or Carducci and/or The City Bin Co to the Divestment Customers at the date of the Determination;
 - c. to provide Domestic Waste Collection Services to the Divestment Customers on terms (including price and the nature and range of services provided) equivalent to those provided to the Divestment Customers by Thorntons Recycling and/or Carducci and/or The City Bin Co at the date of the Determination, except where otherwise required by law;
 - d. to provide Domestic Waste Collection Services to those (if any) of the Divestment Customers who were customers of Carducci and/or The City Bin Co at the date of the Determination using The City Bin Co-branded trucks and The City Bin Co-branded bins;
 - e. to issue The City Bin Co-branded invoices to those (if any) of the Divestment Customers who were customers of Carducci and/or The City Bin Co at the date of the Determination in the same format as those issued to the Divestment Customers by The City Bin Co at the date of the Determination, except where otherwise required by law;
 - f. to provide customer services, help and assistance to the Divestment Customers via one or more dedicated telephone numbers;
 - g. to maintain all permits required to provide Domestic Waste Collection Services to the Divestment Customers;
 - h. to commit to repair or replace any assets (including trucks and bins) necessary for the provision of Domestic Waste Collection Services to the Divestment Customers in the event that such assets become damaged or lost or fall into disrepair prior to the date of disposal of the Divestment Package; and
 - i. to refrain from terminating any contracts with any of the Divestment Customers (other than for breach of a term or terms of the relevant contract giving rise to a termination right thereunder).

Every reference to the Divestment Customers in paragraph 22 and in this paragraph 23 includes a reference to any person who it is reasonably foreseeable may become a Divestment Customer. For the avoidance of doubt, the foregoing obligations in paragraphs 22 and 23 shall cease immediately on divestiture of the Divestment Package or (where relevant and appropriate) at such later time as may be agreed between Thorntons Recycling and the purchaser of the Divestment Package.

24. Thorntons Recycling undertakes not to carry out any act upon its own authority which may reasonably be expected to have a significant adverse impact on the economic value, the management, or the competitiveness of the Divestment Package until the date of its divestment. Further, Thorntons Recycling undertakes not to carry out upon its own authority any act which may be of such a nature as to alter the nature or the scope of activity, or the industrial or commercial strategy, or the investment policy of the Divestment Package.

Continued Separation

25. Thorntons Recycling undertakes not to acquire any interest in the purchaser of the Divestment Package for a period of [REDACTED] following the date of the completion of the sale of the Divestment Package to the purchaser pursuant to these Proposals. Alternatively, in the event that [REDACTED] or [REDACTED] does not acquire the Divestment Package for one or more of the reasons set out in paragraph 8 of these Proposals and the Divestment Package is acquired by one or more alternative purchasers who have been approved by the CCPC in accordance with paragraphs 14 and 15 or paragraph 16 or paragraph 36, Thorntons Recycling undertakes not to acquire any interest in the purchaser(s) of the Divestment Package for a period of [REDACTED] following the completion of the sale of the Divestment Package (or relevant portion of the Divestment Package) pursuant to these Proposals.
26. Thorntons Recycling undertakes that if it attempts by entering into a legally binding agreement, for a period of [REDACTED] following the expiry of the [REDACTED] referred to in paragraph 25 of these Proposals, to acquire any interest in:
- (a) [REDACTED] and / or [REDACTED]; or
- (b) in the event that [REDACTED] and / or [REDACTED] does not acquire the Divestment Package for one or more of the reasons set out in paragraph 8 of these Proposals, the purchaser(s) of the Divestment Package,

Thorntons Recycling will inform the CCPC prior to doing so and will, if requested or required to do so by the CCPC, notify any such proposed acquisition in accordance with Section 18(3) of the Act (or its successor provision, if applicable) if such proposed acquisition is not required to be notified under Section 18(1) of the Act (or any other provision of the Act including successor provisions, if applicable).

Applicable laws

27. Thorntons Recycling undertakes to ensure that the divestment of the Divestment Package is conducted in a manner that complies with all applicable laws, including without limitation data protection law, contract law and consumer protection law. Thorntons Recycling shall procure that the purchaser of the Divestment Package takes all necessary steps to ensure that the divestment of the Divestment Package is conducted in a manner that complies with all applicable laws, including without limitation data protection law, contract law and consumer protection law.

D. Appointment of a Trustee

28. Within ten (10) working days after the date of the Determination being notified to Thorntons Recycling, Thorntons Recycling will propose to the CCPC a trustee, who is independent of both Thorntons Recycling and Carducci (including, for the avoidance of doubt, The City Bin Co) (the "**Proposed Trustee**"). The appointment of the Proposed Trustee

is subject to the approval of the CCPC. If the CCPC does not reject the Proposed Trustee by notice in writing within five (5) working days of the proposal, the Proposed Trustee shall be deemed to have been approved.

29. If the Proposed Trustee is rejected, Thorntons Recycling will propose the name of a new trustee (the "**New Trustee**") within ten (10) working days of being informed of the rejection. If the CCPC does not reject the New Trustee by notice in writing to Thorntons Recycling within five (5) working days of the new proposal, the New Trustee shall be deemed to have been approved.
30. If the New Trustee is rejected by the CCPC, the CCPC shall nominate a suitable trustee (the "**CCPC Trustee**") which Thorntons Recycling will appoint or cause to be appointed.

E. Trustee's Mandate

31. Within [REDACTED] of the date on which the CCPC has approved or is deemed to have approved either the Proposed Trustee, the New Trustee or the CCPC Trustee, Thorntons Recycling shall enter into the Mandate with the approved trustee (the "**Trustee**"), the terms of which shall have previously been agreed with the CCPC, which confers on the Trustee all the rights and powers necessary to permit the Trustee to carry out the mandate described in paragraphs 33 and 36 of these Proposals (the "**Mandate**").
32. The Trustee shall be independent of Thorntons Recycling and Carducci (including, for the avoidance of doubt, The City Bin Co), possess the necessary qualifications and experience to carry out its mandate, and shall neither have nor become exposed to a conflict of interest.
33. Throughout the duration of the Trustee's appointment, the Trustee shall:
 - a. provide written reports ("**Trustee Reports**") to the CCPC on the progress of the discharge of its duties under the Mandate, identifying any respects in which the Trustee has been unable to discharge such duties. The Trustee Reports shall be provided at monthly intervals, commencing one (1) month after the date of the appointment of the Trustee, or at such other times or time periods as the CCPC may specify and are notified in writing to Thorntons Recycling. Thorntons Recycling shall receive a non-confidential copy of such Trustee Reports;
 - b. monitor and advise the CCPC as to the development of the procedure for selecting a purchaser and as to the conduct of the negotiations;
 - c. monitor the maintenance of the nature, description, range and standard of the Domestic Waste Collection Services provided to the Divestment Customers by Thorntons Recycling and/or The City Bin Co from the date of the Determination until completion of the sale of the Divestment Package;
 - d. monitor and advise the CCPC as to the effectiveness of the process by which the Divestment Customers are transferred to the purchaser;
 - e. monitor and advise the CCPC as to whether [REDACTED] or [REDACTED] [REDACTED] or any other prospective purchaser(s) with whom Thorntons Recycling or the Trustee intends to negotiate are likely to be, and pending completion of sale continue to be, a Suitable Purchaser, including providing a written report to the CCPC within five (5) working days of receipt of a fully documented and reasoned proposal

from Thorntons Recycling, pursuant to paragraph 13(a) of these Proposals, verifying the suitability of a prospective purchaser or purchasers;

- f. provide a written report to the CCPC within five (5) working days of receipt of a fully documented and reasoned report from Thorntons Recycling, pursuant to paragraph 5 and/or paragraph 13(b) of these Proposals, verifying whether the requirements set out in these Proposals have been fulfilled and that there has been no Material Change.
34. The Trustee's duties and functions as set out above shall not be extended or varied in any way by Thorntons Recycling, save with the express consent of the CCPC. Any instruction or request to the Trustee from Thorntons Recycling which conflicts with the terms of the Mandate, and the duties and functions as set out above, will be considered null and void.
 35. The CCPC may, on its own initiative or at the request of the Trustee, give any orders or instructions to the Trustee that are required in order to ensure compliance with the conditions and obligations attached to the Determination so long as Thorntons Recycling is first given an opportunity to comment on any such orders or instructions in advance.
 36. In the circumstances specified below, the Trustee shall be given an irrevocable mandate to negotiate and conclude arrangements for the sale of the Divestment Package to one prospective purchaser, or alternatively for the sale of the Divestment Package to one or more prospective purchasers, [REDACTED] and upon such terms and conditions as it considers appropriate for an expedient sale to a viable and independent third party (subject to the CCPC having approved both the purchaser and the binding letter of intent or binding contract for the divestment of the Divestment Package in accordance with paragraph 13 and paragraphs 14, 15 and/or 16 of these Proposals):
 - a. if [REDACTED] (or such longer period as may be agreed by the CCPC or as may result from the delays referred to in paragraph 16 of these Proposals) have elapsed after the date of the occurrence of any one of the events set out in paragraph 8 above without Thorntons Recycling having entered into a binding contract for the disposal of the entirety of the Divestment Package; or
 - b. if a sale pursuant to a binding contract referred to in (a) above has not completed within a [REDACTED] period from the date of the relevant binding contract (or such longer period as may be allowed by the CCPC), or any prospective purchaser referred to in section B (i.e. an Alternative Purchaser or Purchasers) of these Proposals exercises any relevant rights it has pursuant to any binding contract with Thorntons Recycling not to proceed with the proposed acquisition within that two (2) month period.
 37. The Trustee shall have regard to the legitimate financial interests of Thorntons Recycling in respect of such divestment, subject to Thorntons Recycling's unconditional obligation to divest the Divestment Package at no minimum price.

F. Miscellaneous

38. Thorntons Recycling will provide the Trustee with all reasonable assistance and will procure (so far as it is able) that all relevant third parties provide such assistance as is required to ensure compliance with these Proposals. Thorntons Recycling will provide or cause to be provided to the Trustee all such assistance and information, including copies of all relevant documents accessible by Thorntons Recycling as the Trustee may require in carrying out its

Mandate, and will pay reasonable remuneration for the Trustee's services.

39. In addition, at the expense of Thorntons Recycling, the Trustee may appoint advisors (in particular for corporate finance and / or legal advice), subject to Thorntons Recycling's approval, such approval not to be unreasonably withheld or delayed, if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should Thorntons Recycling refuse to approve the advisors proposed by the Trustee, the CCPC may approve the appointment of such advisors instead, after first having received Thorntons Recycling's views in writing. Only the Trustee shall be entitled to issue instructions to the advisors.
40. Notwithstanding the Trustee's overall responsibility to discharge its functions and, in particular, notwithstanding the Trustee's position as an independent unrelated third party, the Trustee (who shall undertake in the Mandate to do so) shall have to the extent possible given the nature of its tasks due regard to the commercial interests of Thorntons Recycling.
41. Thorntons Recycling shall indemnify the Trustee and its employees and agents (each an "**Indemnified Party**") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to Thorntons Recycling for, any liabilities arising out of the performance of the Trustee's duties under these Proposals and the Mandate, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.
42. The Mandate and these Proposals shall be deemed to be discharged and the Trustee's appointment shall be deemed to be terminated if Thorntons Recycling announces that the Proposed Transaction has been irrevocably abandoned.
43. The Trustee's and all other relevant third parties' powers of attorney and appointment shall be irrevocable.
44. The Trustee shall have full and complete access to the Divestment Customer Manager(s) (as defined in paragraph 21 of these Proposals) in order to ensure compliance by Thorntons Recycling with its obligation to maintain the nature, description, range and standard of the Domestic Waste Collection Services provided to the Divestment Customers from the date of the Determination until completion of the sale of the Divestment Package.

G. Review Clause

45. The CCPC may at its sole discretion extend any of the time periods provided for in these Proposals in response to a reasoned request from Thorntons Recycling or the Trustee. The CCPC may further, at its sole discretion, waive, modify or substitute any provision in these Proposals in response to a reasoned request from Thorntons Recycling or the Trustee showing good cause.

Appendix: The Divestment Package

The Divestment Package comprises the following:

1. the Divestment Customers, which comprise the following numbers of customers in each of the Overlapping Areas 1 to 9 as set out in the table below, provided that:
 - a. before effecting any sale of the Divestment Package under these Proposals, Thorntons Recycling shall prepare a list (the “List”) of all the customers proposed to be included among the Divestment Customers (in accordance with the numbers set out below);
 - b. [REDACTED]
 - c. [REDACTED]

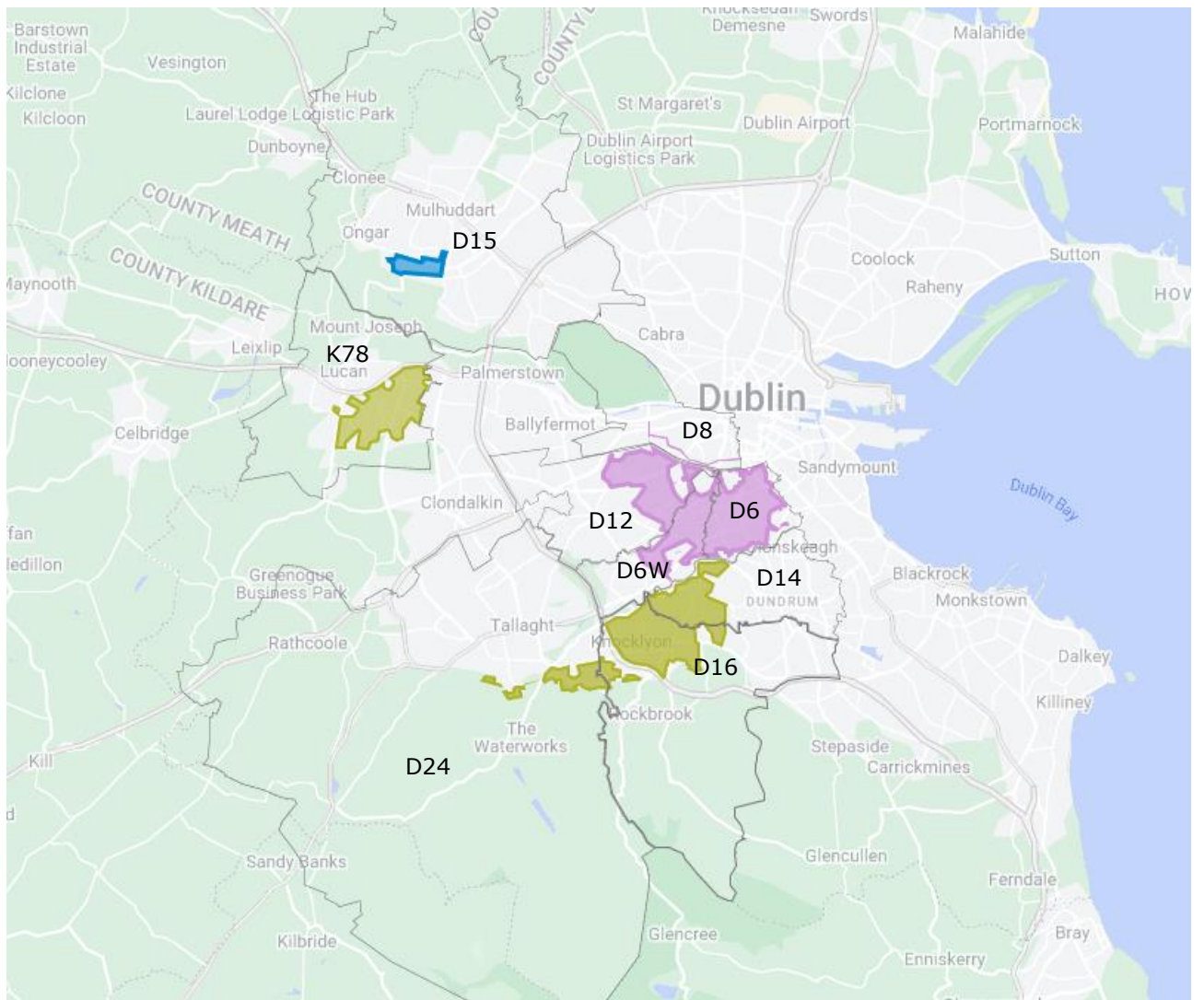
| Overlapping Area | Postcode | Overlapping Area Size (km ²) | Number of customers to divest |
|------------------|------------|--|-------------------------------|
| 1. | Dublin 6 | 5 | 336 |
| 2. | Dublin 6W | 3 | 778 |
| 3. | Dublin 8 | 0.2 | 33 |
| 4. | Dublin 12 | 4 | 1,188 |
| 5. | Dublin 15 | 1 | 92 |
| 6. | Dublin 14 | 3 | 754 |
| 7. | Dublin 16 | 5 | 1,724 |
| 8. | Dublin 24 | 2 | 824 |
| 9. | Lucan, K78 | 4 | 2,231 |
| | | 27 | 7,960 |

2. all relevant books, records and correspondence relating to the Divestment Customers, including the full name, address and contact details of each Divestment Customer and any other relevant information relating to each Divestment Customer (including but not limited to account number, number and type of bins, billing frequency, billing charge, billing date, payment method, debtor balance and prepaid calculation), which are maintained by Thorntons Recycling and/or The City Bin Co at the date of the Determination;
3. the rights, interest and obligations under all contracts between Thorntons Recycling and/or The City Bin Co and each of the Divestment Customers for the provision of Domestic Waste Collection Services which are in force at the date of the Determination;
4. all bins at the addresses of the Divestment Customers at the date of the Determination which

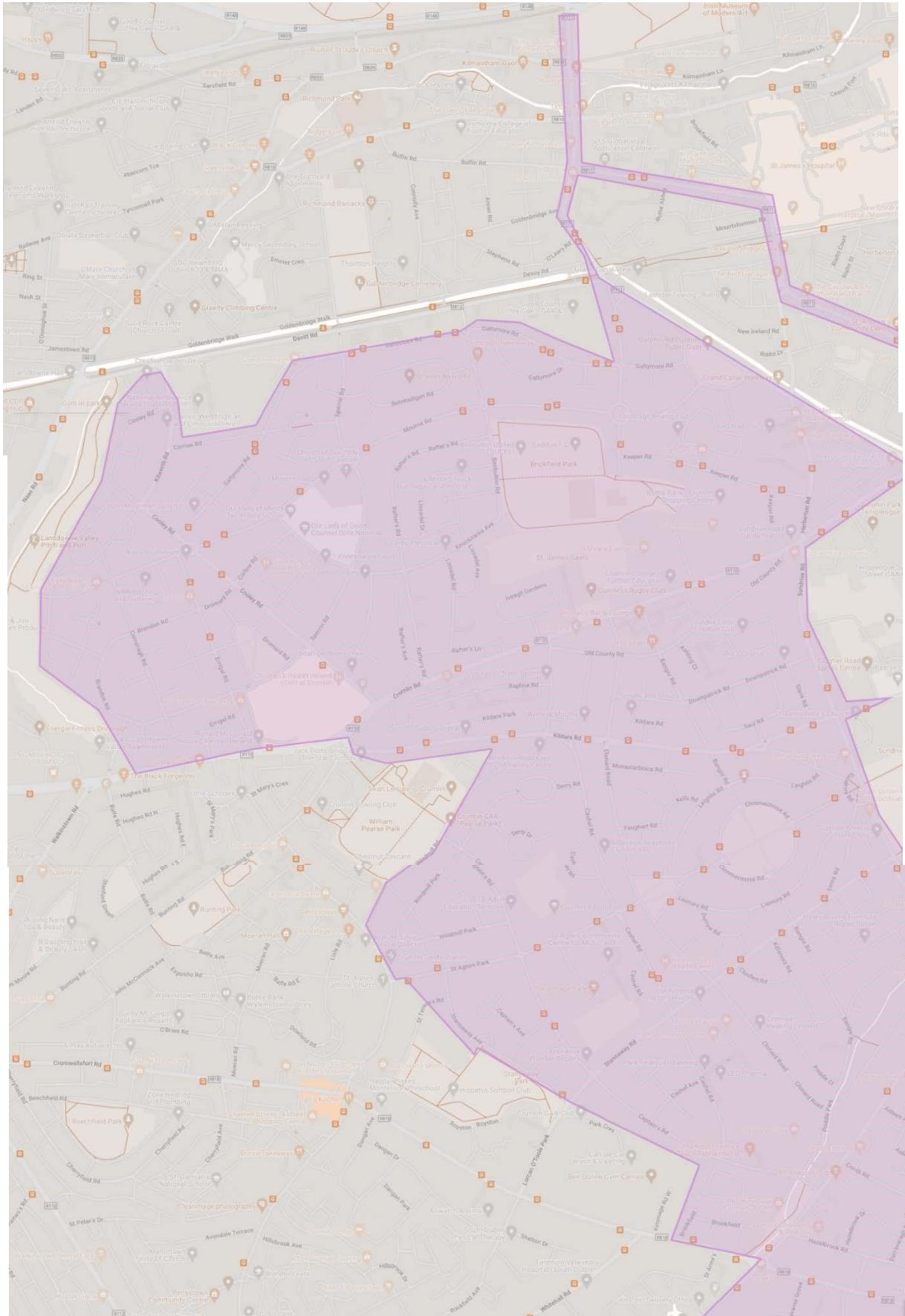
have been provided by Thorntons Recycling or Carducci (including, for the avoidance of doubt, The City Bin Co); and

5. all balances, including credits and debts, in respect of the Divestment Customers which are outstanding at the date of the completion of the divestment.

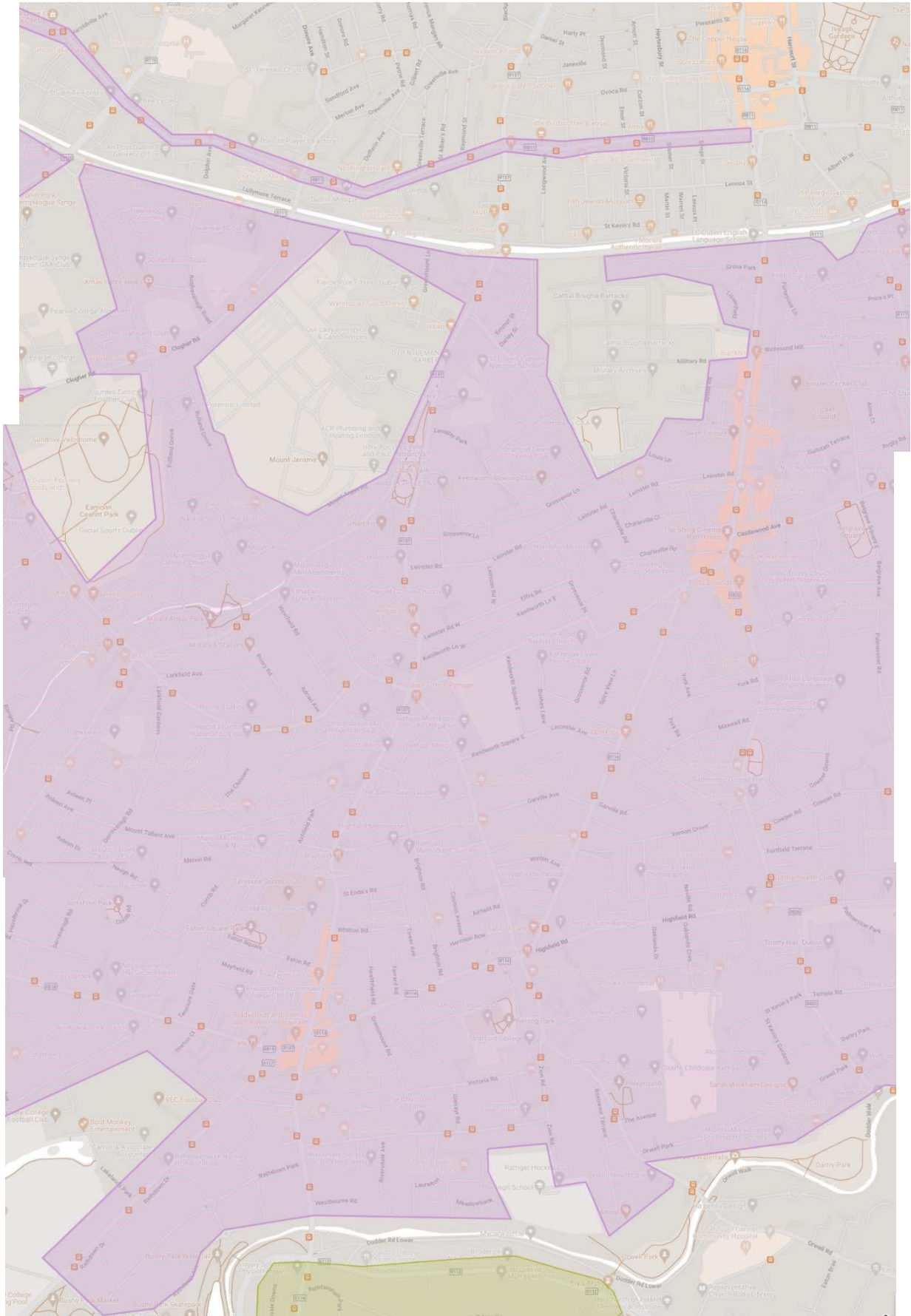
The Overlapping Areas



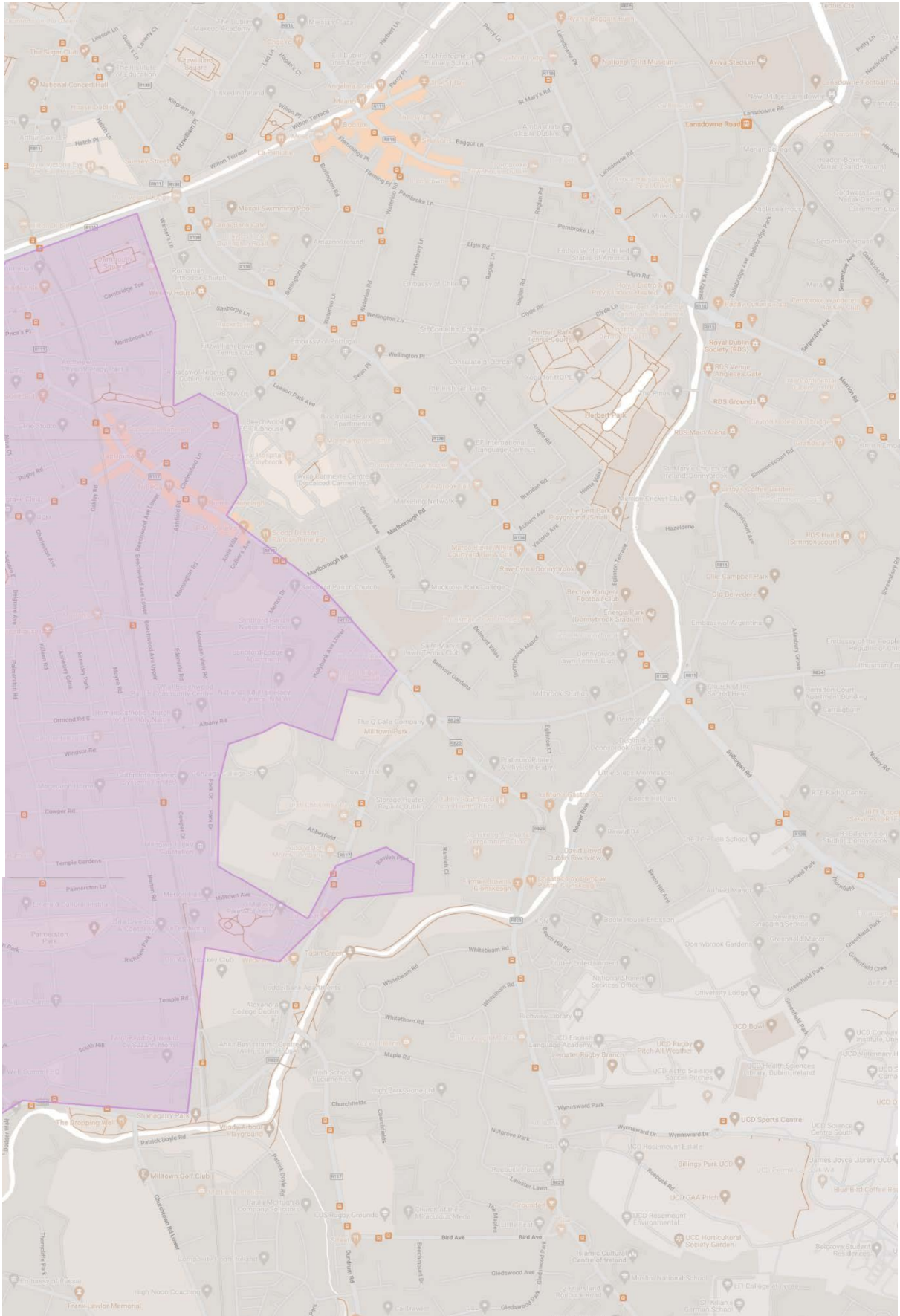
Overlapping Areas in Dublin 6, 6W, 8 and 12 (West)



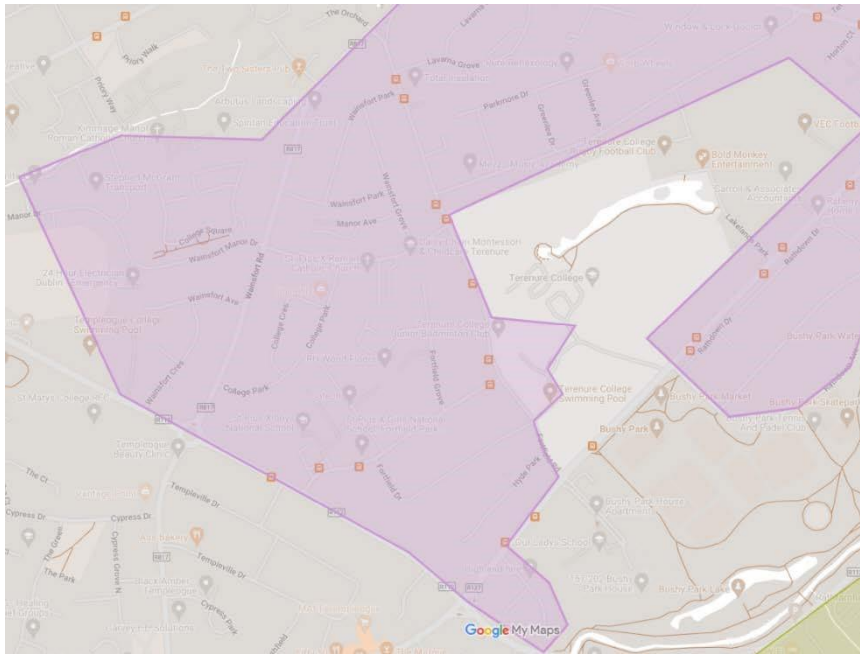
Overlapping Areas in Dublin 6, 6W, 8 and 12 (Central)



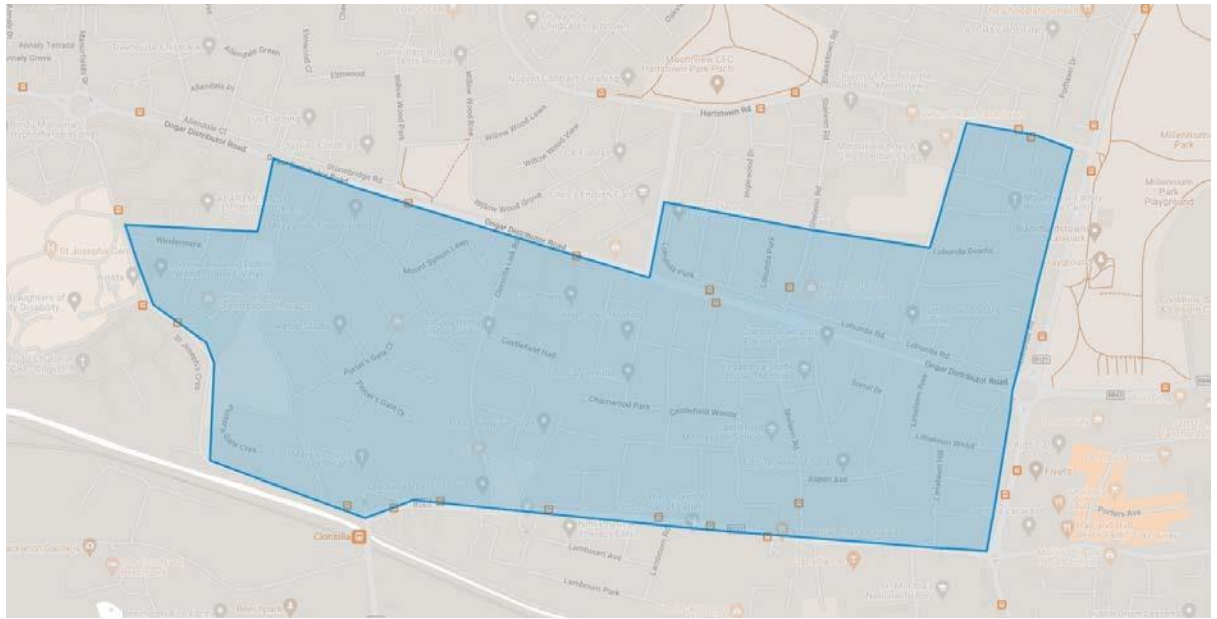
Overlapping Areas in Dublin 6, 6W, 8 and 12 (East)



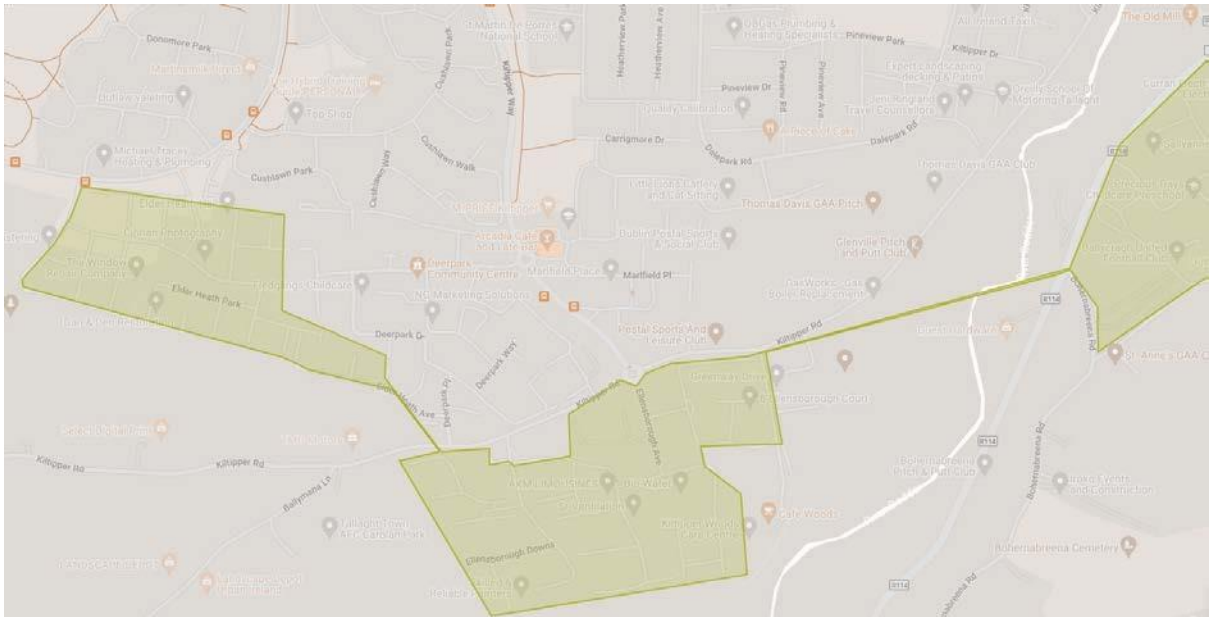
Overlapping Areas in Dublin 6, 6W, 8 and 12 (Southwest)



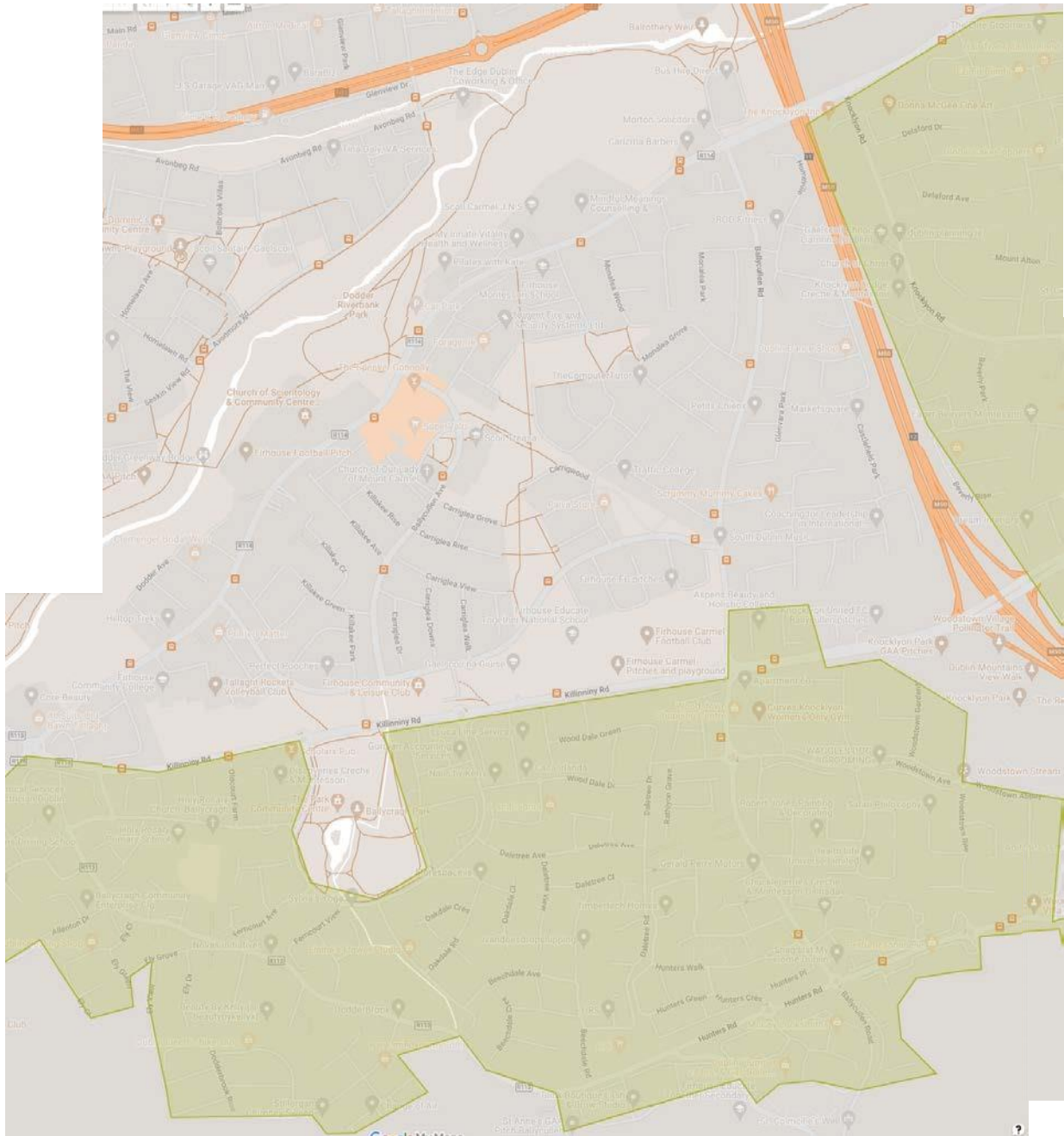
Overlapping Area in Dublin 15



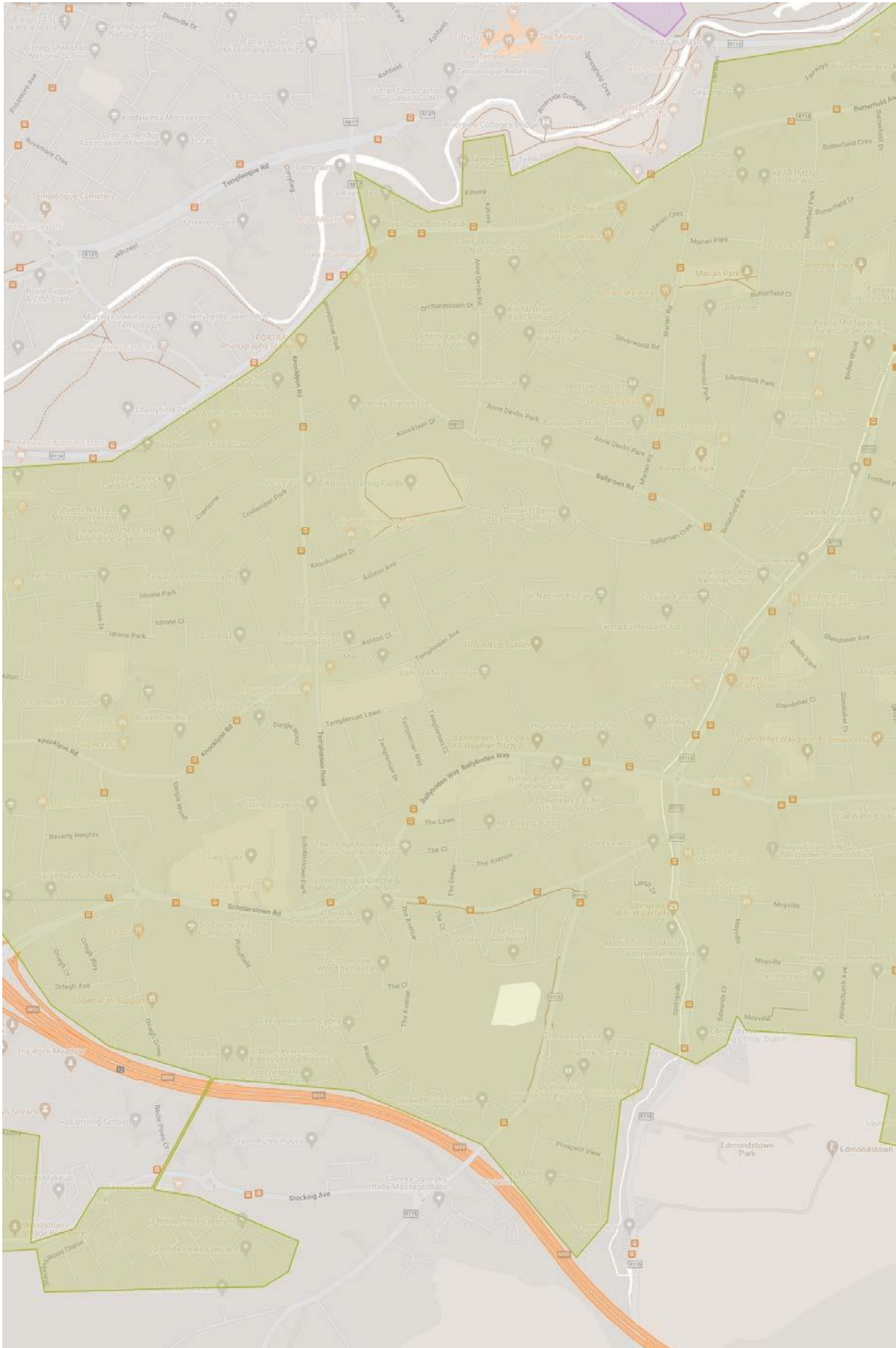
Overlapping Areas in Dublin 14, 16 and 24 (Southwest)



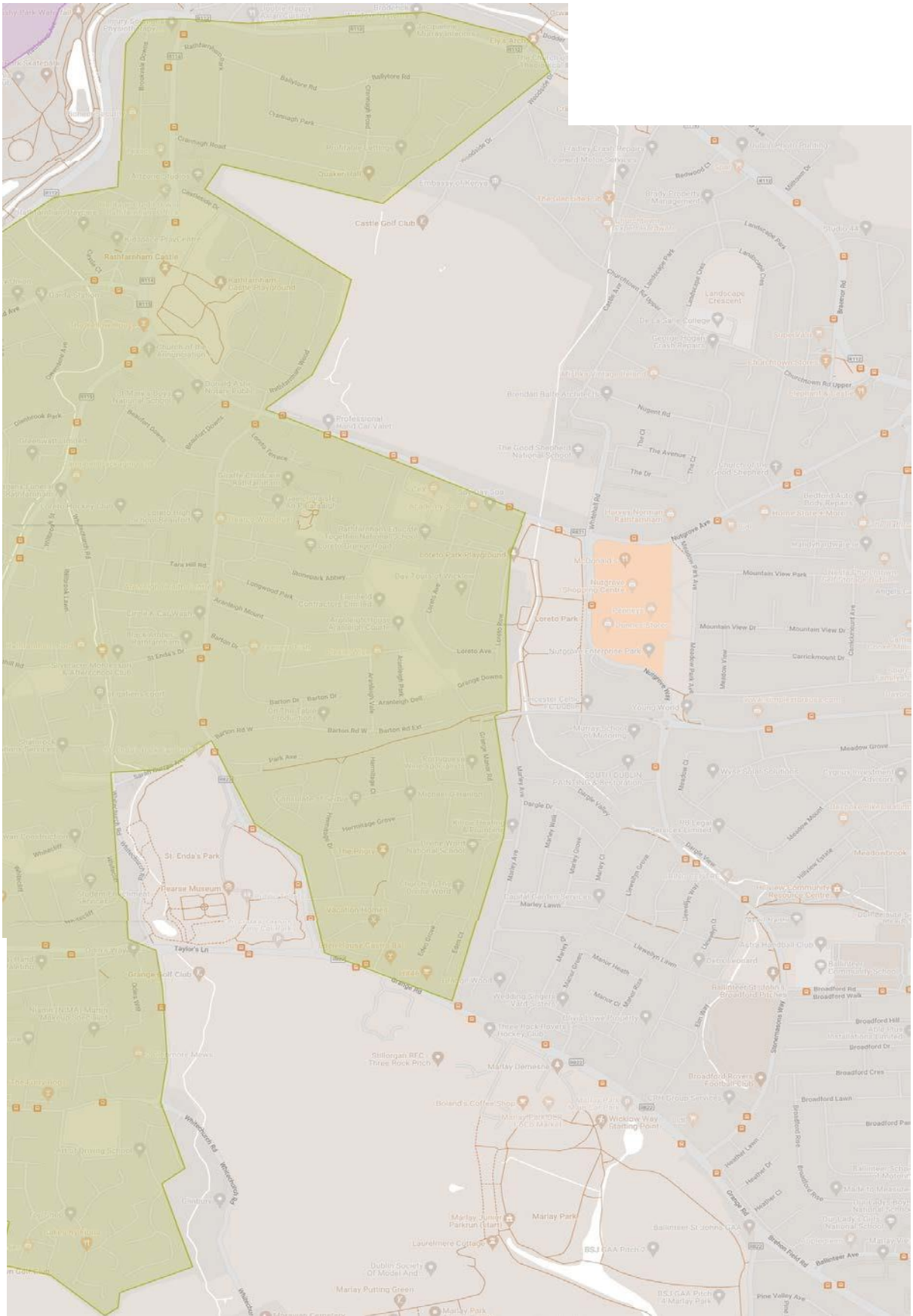
Overlapping Areas in Dublin 14, 16 and 24 (West)



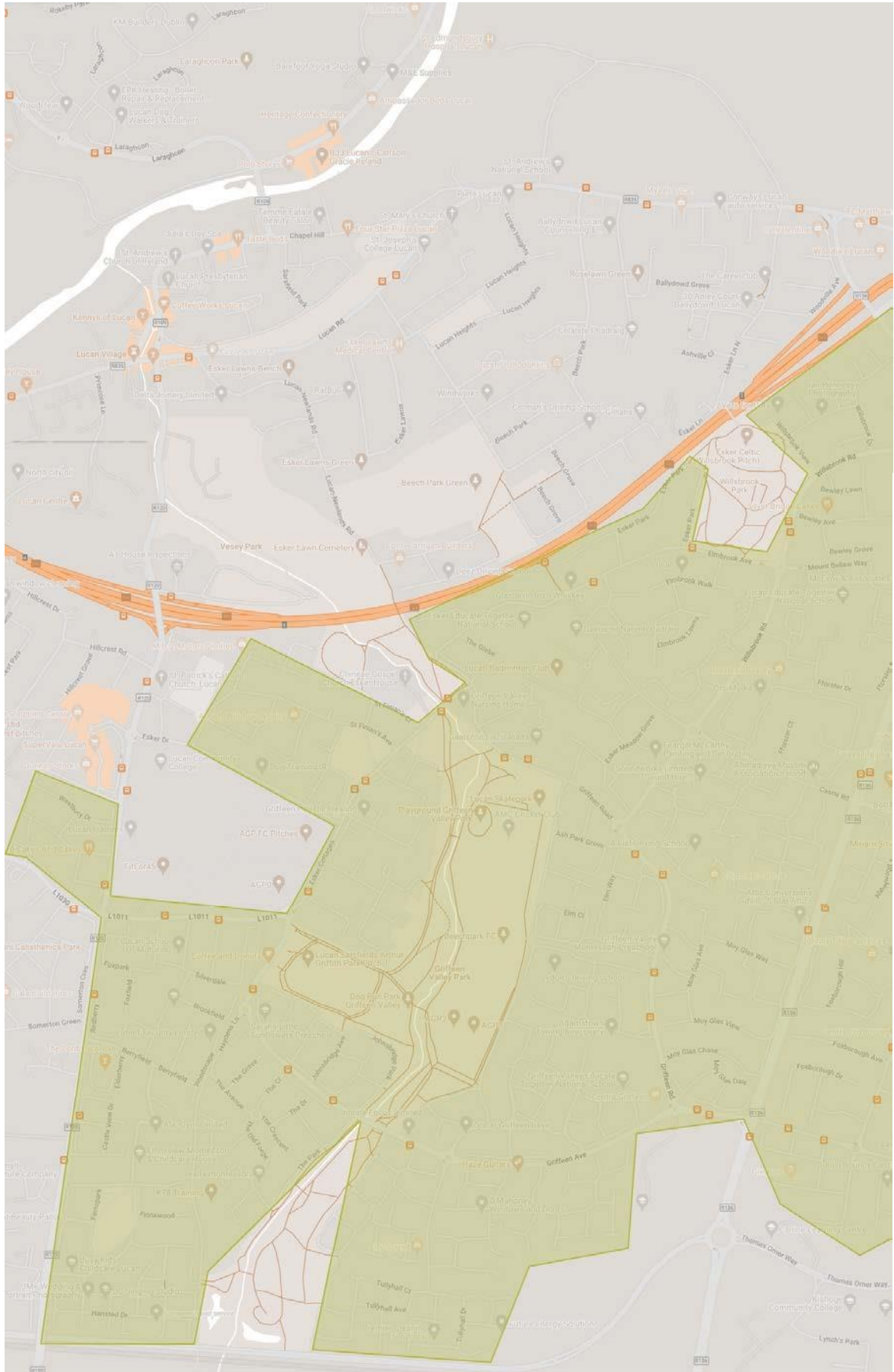
Overlapping Areas in Dublin 14, 16 and 24 (Central)



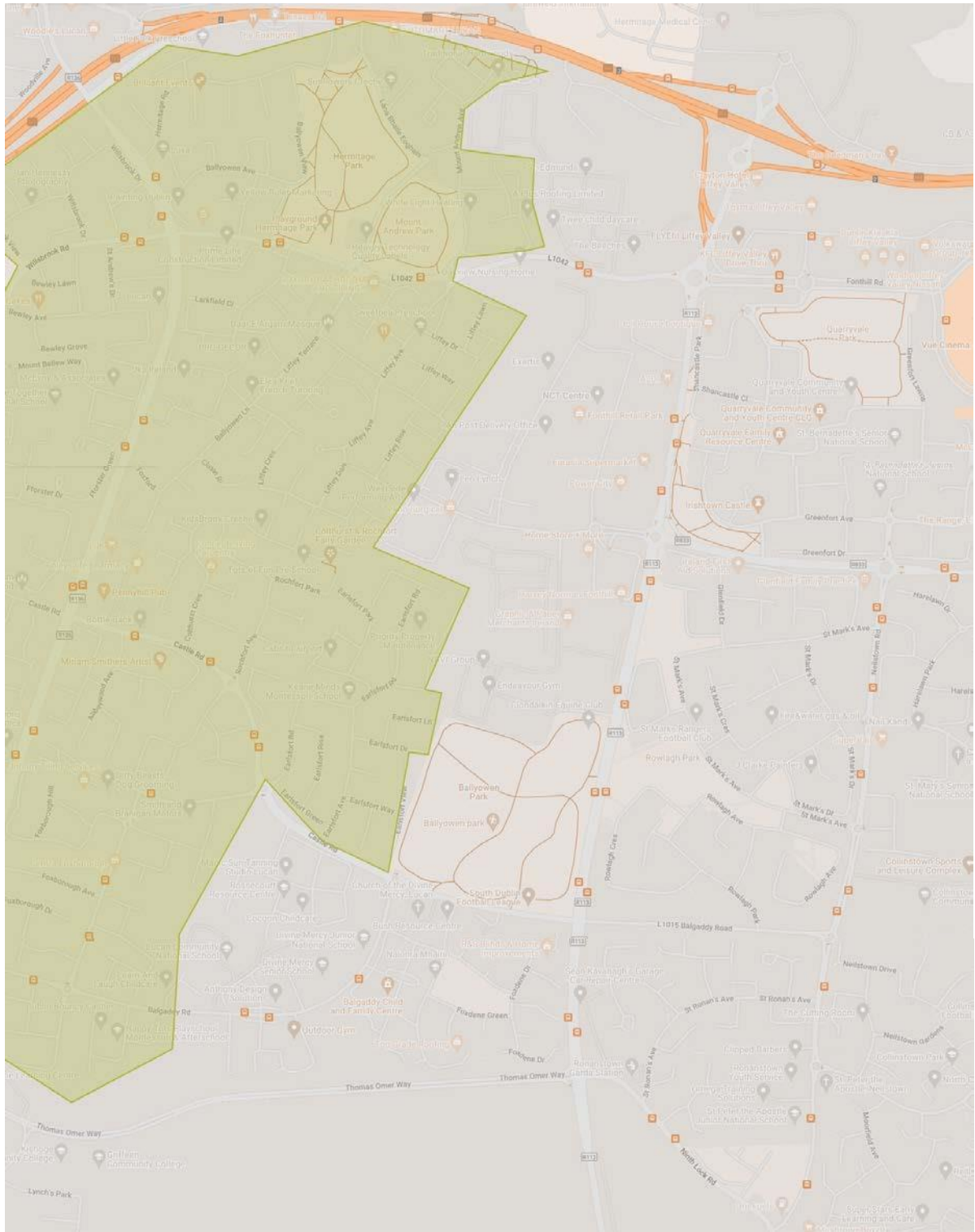
Overlapping Areas in Dublin 14, 16 and 24 (East)



Overlapping Area in K78 (West)



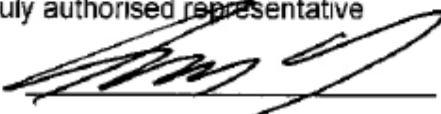
Overlapping Area in K78 (East)



Signed for and on behalf of

Thorntons Recycling

By its duly authorised representative

By: 

Name: GARY BRADY

Title: CEO