



DETERMINATION OF MERGER NOTIFICATION

M/22/067 – Thorntons

**Recycling/Carducci Holdings (The City
Bin Co)**

13 July 2023



Cóimisiún um
Iomláocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

Contents

1. Introduction.....	4
Introduction.....	4
The Proposed Transaction	4
The Undertakings Involved.....	4
The Acquirer – Thorntons Recycling	4
The Target – Carducci.....	5
Rationale for the Proposed Transaction	6
Preliminary Investigation (“Phase 1”).....	6
Contact with the Undertakings Involved	6
Third-party submissions.....	7
Market enquiries.....	7
Phase 1 proposals	7
The Phase 1 investigation	7
Full investigation (“Phase 2”).....	8
Contact with the undertakings involved.....	8
Third-party submissions.....	8
Information sources relied upon.....	8
Phase 2 proposals	9
2. Industry Background	10
3. Relevant product and geographic markets	18
Introduction.....	18
Relevant principles	18
Horizontal and vertical overlap.....	21
Relevant product markets	22
Previous decisions.....	22
Views of the Parties	22
Views of the Commission.....	23
Relevant geographic markets	23
Previous decisions.....	23
Views of the Parties	25
Views of the Commission.....	26
4. Relevant Counterfactual	33

Introduction.....	33
Views of the Parties and third parties	34
Views of the Commission	34
The Commission’s conclusion on the relevant counterfactual.....	34
5. Competitive Assessment: Horizontal Effects.....	36
Introduction.....	36
Relevant Potential Markets in which the Proposed Transaction raises no competition concerns	36
The supply of waste collection services to single-site C&I customers in the GDA	37
The supply of waste collection services to multi-site C&I customers in the GDA.	39
Relevant Potential Markets in which the Commission has identified potential competition concerns arising from the Proposed Transaction.....	41
Overall conclusion on horizontal effects	47
6. Competitive Assessment: Coordinated effects	48
7. Vertical Relationship	49
8. Efficiencies	51
9. Conclusion	52
10. ANCILLARY RESTRAINTS	53
11. Determination.....	55
Annex A: Proposals.....	56
<i>Interim Position of the Divestment Package</i>	<i>64</i>
<i>Continued Separation</i>	<i>66</i>

1. INTRODUCTION

Introduction

- 1.1 On 16 December 2022, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed acquisition, whereby Padraig Thornton Waste Disposal Limited (“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 (“The City Bin Co”) (the “Proposed Transaction”). Thorntons Recycling and Carducci Holdings are the parties to the Proposed Transaction (the “Parties”).

The Proposed Transaction

- 1.2 The Proposed Transaction is to be implemented pursuant to a share purchase agreement dated 28 July 2022 between: CCIF Salero S.À.R.L; Bolgheri Limited; [REDACTED] (a private individual); the ‘Management Sellers’;¹ the ‘Employee Sellers’;² and Thorntons Recycling (the “SPA”). Under the terms of the SPA, Thorntons Recycling will acquire the entire issued share capital, and thus sole control, of Carducci.

The Undertakings Involved

The Acquirer – Thorntons Recycling

- 1.3 Thorntons Recycling is a vertically integrated waste and recycling business, primarily active in the Greater Dublin Area (“GDA”)³ in the following business activities:

- the supply of domestic waste collection services;

¹ The ‘Management Sellers’ are two private individuals, namely [REDACTED] and [REDACTED].

² The ‘Employee Sellers’ are eight private individuals, namely [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

³ The GDA comprises the city of Dublin and the counties of South Dublin, Fingal, and Dun Laoghaire-Rathdown (collectively “Co. Dublin”), as well as the counties of Meath, Kildare and Wicklow. Save where otherwise indicated, references in this Determination to “South Dublin” are references to the county of that name.

- the supply of waste collection services to single-site commercial and industrial (“C&I”) customers;
- the supply of waste collection services to multi-site C&I customers;
- the processing of waste collected from domestic and C&I customers; and
- the supply (for sale) of sorted/processed recyclable materials.

1.4 With respect to waste processing, Thorntons Recycling operates six materials recovery facilities, five of which are located in Co. Dublin,⁴ and one in Co. Meath. Thorntons Recycling also operates: (i) a composting facility in Co. Meath; (ii) a confidential shredding facility in Co. Dublin; (iii) a baling facility in Co. Dublin; and (iv) a timber shredding facility in Co. Wicklow.⁵

1.5 For the financial year ending 31 December 2021, Thorntons Recycling’s worldwide turnover was approximately €93.05 million, all of which was generated in the State.

The Target – Carducci

1.6 Carducci is the indirect owner of, and ultimately controls, The City Bin Co. The City Bin Co is active in Co. Dublin and Co. Galway in the following business activities:

- the supply of domestic waste collection services;
- the supply of waste collection services to single-site C&I customers; and
- the supply of waste collection services to multi-site C&I customers.

1.7 The City Bin Co operates a transfer station near Oranmore, Co. Galway. The transfer station stores waste which is transferred onwards for disposal or processing by third parties. The City Bin Co does not engage in waste processing at its transfer station or elsewhere.

⁴ One of these facilities is also a mixed dry recycling facility.

⁵ This timber shredding facility is owned by Pandagreen Limited (“Pandagreen”) and is operated by both Thorntons Recycling and Pandagreen as part of a joint venture.

- 1.11 Upon receipt of a full response to each of the Phase 1 RFIs, the “*appropriate date*” (as defined in section 19(6)(b)(i) of the Act) became 29 March 2023.⁸
- 1.12 During the Phase 1 investigation, the Commission requested and received further information and clarifications from the Parties.

Third-party submissions

- 1.13 No third-party submission was received during the Phase 1 investigation outside of the context of the Commission’s market enquiries referred to below.

Market enquiries

- 1.14 The Commission also engaged with third parties in relation to its review of the likely competitive effects of the Proposed Transaction. This third-party engagement consisted of market enquiries, including the issuing of questionnaires to competitors and customers of the Parties. The Commission also held a call with the waste incinerator, the Dublin Waste-to-Energy facility, which is operated by Encyclis.

Phase 1 proposals

- 1.15 During the Phase 1 investigation, the Commission identified potential competition concerns arising from the Proposed Transaction. On 9 May 2023, Thorntons Recycling submitted draft proposals (the “First Draft Proposals”) to the Commission in accordance with section 20(3) of the Act with a view to ameliorating any effects of the Proposed Transaction on competition in markets for goods or services in the State. The submission of these First Draft Proposals extended the period within which the Commission was required to conclude its assessment of the competitive effects of the Proposed Transaction in Phase 1 by 15 working days to 45 working days in accordance with section 21(4) of the Act.

The Phase 1 investigation

⁸ The “*appropriate date*” is the date from which the time limits for making both Phase 1 and Phase 2 determinations begin to run.

- 1.16 During the Phase 1 investigation, the Commission engaged with Thorntons Recycling and Carducci and their legal advisors to discuss whether the First Draft Proposals submitted would address potential competition concerns identified by the Commission (which are outlined in Section 5 of this Determination). The Commission was unable to reach a conclusion that the First Draft Proposals would ameliorate the potential concerns identified by the Commission.
- 1.17 Having considered all the available information in its possession at the time, the Commission was unable to form the view, at the conclusion of its Phase 1 investigation, that the result of the Proposed Transaction would not be to substantially lessen competition in any market for goods or services in the State.
- 1.18 Therefore, on 31 May 2023, the Commission determined, in accordance with section 21(2)(b) of the Act, to carry out a full investigation under section 22 of the Act.

Full investigation (“Phase 2”)

Contact with the undertakings involved

- 1.19 On 9 June 2023, revised draft proposals (the “Second Draft Proposals”) were submitted to the Commission by Thorntons Recycling. During the Phase 2 investigation, the Commission engaged further with Thorntons Recycling, Carducci and their legal advisors concerning the Second Draft Proposals. The Commission’s engagement with the Parties during Phase 2 focused on market testing and refining the Second Draft Proposals.

Third-party submissions

- 1.20 No third-party submission was received during the Phase 2 investigation.

Information sources relied upon

- 1.21 In forming its views on the Proposed Transaction, as set out in this Determination, the Commission has considered all the relevant information available to it at the time of making this Determination and in particular information provided by the Parties in response to the Commission’s RFIs and information requests,

information obtained from third parties, and other information available in the public domain.

Phase 2 proposals

- 1.22 The Commission carried out an evaluation of the extent to which the Second Draft Proposals would address its potential competition concerns. Over the period 14 June to 16 June 2023, the Commission market tested the Second Draft Proposals and held calls with third parties identified by the Parties as potential purchasers of a divestment package to seek their views on the Second Draft Proposals.
- 1.23 On 12 July 2023, Thorntons Recycling submitted to the Commission final proposals (“the Final Proposals”) under section 20(3) of the Act with a view to the Final Proposals becoming binding on Thorntons Recycling if the Commission took the Final Proposals into account and stated in writing that the Final Proposals formed the basis or part of the basis of its determination under section 22 of the Act in relation to the Proposed Transaction. The Final Proposals are appended to this Determination.

2. INDUSTRY BACKGROUND

2.1 The Commission's analysis, for the purposes of assessing the competitive effects of the Proposed Transaction, focuses on the collection, processing and disposal of non-hazardous waste. Neither Thorntons Recycling nor Carducci is active to any significant extent in the collection or processing of hazardous waste substances such as asbestos, polychlorinated biphenyls (PCBs) and persistent organic pollutants.⁹

2.2 This section provides an overview of non-hazardous waste management in the State, with a specific focus on:

- Production of waste at domestic and C&I premises;
- Collection of waste from domestic and C&I premises;
- Transfer, sorting and/or processing of waste;
- End disposal and recycling of waste;
- Waste regulation in the State;
- The Commission's previous reviews of the non-hazardous waste management sector; and
- Background to domestic waste collection in the State and in Co. Dublin.

Waste production

2.3 Waste, by its very nature, is an undesirable by-product of different activities occurring in either a domestic or commercial setting. Therefore, while some waste may be stored or relocated at an adjacent location (e.g., composting organic

⁹ In the Merger Notification Form, the parties state (at footnote 2) that: "Thorntons Recycling tanker services division is involved in the transportation of hazardous waste. It does not process it. The City Bin Co. does not offer hazardous waste services."

material), the majority of waste is removed from domestic or commercial premises by a waste collection service provider.

Waste collection

- 2.4 Waste collection comprises the collection and transportation of waste from one place on the domestic or commercial premises where the waste originated to another suitable location such as a transfer station, processing facility, or incinerator/landfill. Two key parts of the waste collection process are a collection method (e.g., bags, wheelie bins or skips) and transport (e.g., vans or trucks).
- 2.5 Domestic waste collection is provided to individual domestic households (including detached houses, semi-detached houses, terraced houses, bedsits and apartments in converted houses or commercial buildings, but excluding purpose-built apartment complexes). Domestic waste collection usually occurs weekly or fortnightly on scheduled pick-ups through the collection of wheelie bins or bags containing household waste (i.e., non-recyclable or “black bin” waste, organic compostable waste and mixed recyclable waste). Domestic waste collection also includes the removal of skips from domestic customers which may contain demolition and construction waste. Domestic customers who reside in buildings where there is not adequate space for them to keep or store wheelie bins (for example, terraced houses located on narrow streets) may have their household waste collected in domestic waste bags rather than wheelie bins.
- 2.6 C&I waste collection generally includes a similar sort of waste to household waste, so the processing and disposal options are comparable as between domestic and C&I waste. However, C&I customers usually require more frequent collections than domestic customers and often require comprehensive reporting on the volume and composition of their waste. C&I wheelie bins may be larger than the typical domestic wheelie bin. C&I customers are referred to as either “single-site” or “multi-site” customers. Single-site (also known as “individual”) C&I customers are those which have one business location from which their waste is collected. Multi-site C&I customers are those which have their waste collected from more than one

location (for example, a retail chain which has stores in various locations). Purpose-built apartment complexes are considered C&I customers.

Waste transfer, sorting and/or processing

- 2.7 Following the waste being collected from a customer's premises, it is then transported to a different location for processing. Waste processing involves: (i) the transfer of waste from the waste collector's truck to a transfer station or processing facility; and (ii) the sorting and categorising of waste at the processing facility prior to subsequent recycling or disposal. For example, at a material recovery facility ("MRF"), mixed recyclables are brought to the MRF for segregation into cardboard, paper, plastic bottles, steel/aluminium cans and residual waste, and various types of waste are separated out and prepared for later disposal or recycling. The transfer and processing of waste may occur at the same location or, alternatively, waste may be bulked up at a transfer station prior to being transported to a further location for more processing.
- 2.8 Some providers of waste management services only collect waste from customers and do not process waste. These operators contract with waste processors for the provision of waste processing services. Some providers of waste management services both collect waste from customers and process the waste in their own waste processing facilities.

End waste disposal and recycling of waste

- 2.9 Waste that cannot be recycled/composted (also called residual waste) is either disposed of at a landfill, or recovered at a landfill (i.e., used as landfill cover or for engineering purposes such as road building), or sent to cement kilns, or sent for incineration at a waste-to-energy facility either in the State or abroad.
- 2.10 The waste-to-energy facilities in the State are the Indaver Waste-to-Energy facility, located in Duleek, Co. Meath and the Dublin Waste-to-Energy facility, which is operated by Encyclis, and located in Poolbeg, Co. Dublin. Both waste-to-energy facilities accept residual waste, and such waste does not need to be sorted or processed before being sent to the facility. The *Dublin Waste-to-Energy* facility has individual arrangements with a number of waste operators whereby each operator

agrees to supply a certain tonnage of waste to the facility for a contracted number of years.¹⁰ These contracts vary in duration but are typically between five and ten years.¹¹ All of *Dublin Waste-to-Energy's* capacity for waste is allocated to those operators it holds contracts with.¹² Some waste operators may have an arrangement to supply *Dublin Waste-to-Energy* with more waste tonnage than the waste operator collects, and the waste operator will then sell any additional tonnage capacity to those waste operators who do not have a contracted tonnage allowance.

- 2.11 Most of the waste that can be recycled that is not glass (e.g. paper, plastics, metals) is exported abroad. Waste operators either export the material directly, or sell to brokers who arrange for its export and resale on the international market.¹³

Waste regulation

- 2.12 Waste collection and processing within the State is subject to regulation by the Environmental Protection Agency ("EPA"), the National Waste Collection Permit Office ("NWCPO"), and local authorities (including three nominated waste enforcement regional lead authorities). The EPA is responsible, under Irish and European legislation, for the licensing of waste facilities such as landfills, incinerators, cement kilns and waste transfer/processing facilities. As part of its regulatory role, the EPA sets maximum capacity thresholds for waste facilities.
- 2.13 The NWCPO is responsible, under the Waste Management (Collection Permit) Regulations 2007 (SI 820/2007), as amended, for the licensing of waste collection operators. The NWCPO issues licences on behalf of local authorities who have responsibility for the enforcement of licence conditions. No individual or firm can collect waste, for gain or profit, without first obtaining a licence from the NWCPO.

The Commission's previous reviews of the non-hazardous waste management sector

¹⁰ Call between the Commission and Dublin Waste-to-Energy.

¹¹ Call between the Commission and Dublin Waste-to-Energy.

¹² Dublin Waste-to-Energy has a limited availability of "spot waste" whereby waste operators can dispose of waste at the facility without a contract.

¹³ The Parties are not active in the supply (for sale) of non-glass recyclables.

2.14 The Commission has previously investigated the non-hazardous waste management sector in the State in several merger determinations, including *M/21/016 – Pandagreen/Exomex*,¹⁴ *M/18/053 – Pandagreen/Knockharley Landfill and Natureford*,¹⁵ *M/18/005 – Thorntons/A Plus*,¹⁶ and *M/16/008 – PandaGreen/Greenstar*.¹⁷ The Commission produced a market study entitled “The Operation of the Household Waste Collection Market” in 2018 (the “2018 Market Study”).¹⁸ The Commission’s previous reviews have assisted in understanding this sector while analysing the likely competitive impact of the Proposed Transaction.

2.15 In the 2018 Market Study, the Commission discussed several issues in the market for the supply of domestic waste collection services. For example, the Commission noted:

“The market is highly concentrated in places, giving operators considerable market power. This market power is unconstrained by any countervailing buyer power, due to the weak position of consumers.

The household waste collection sector exhibits characteristics of a natural monopoly, including economies of density and scale, high fixed costs and a large cost advantage for a single operator.

Barriers to entry are exacerbated by the side-by-side competition model which makes the cost of acquiring households for a new entrant both expensive and uncertain.

¹⁴ The Commission’s public determination is available at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2021/04/M.21.016-Pandagreen-Exomex-Public-Determination.pdf>

¹⁵ The Commission’s public determination is available at: <https://www.ccpc.ie/business/mergers-acquisitions/merger-notifications/m18053-pandagreenknockharley-landfill-natureford/>

¹⁶ The Commission’s public determination is available at: <https://www.ccpc.ie/business/mergers-acquisitions/merger-notifications/m18005-thorntonsa-plus/>

¹⁷ The Commission’s public determination is available at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf

¹⁸ The 2018 Market Study is available at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/10/The-Operation-of-the-Household-Waste-Collection-Market.pdf>

The level of competition varies across the country. Whether households have a choice of operator, and an ability to switch, is heavily influenced by their location.

Significant operator consolidation has occurred in the market and this is likely to continue. It is not likely that new operators will enter the market, due to cited structural and behavioural barriers to entry.

The ongoing consolidation in the market could mean that the remaining operators may have an unregulated monopoly position with possible adverse implications for household charges and service levels, and ultimately, consumers.”¹⁹

- 2.16 The 2018 Market Study addressed mergers and acquisitions in the household waste collection market as follows:

“This study has outlined that there will likely be further consolidation of operators in the household waste collection market in the State. Currently, the majority of mergers and acquisitions which occur in the household waste collection sector involve small operators whose turnover falls under the CCPC’s merger notification thresholds and thus, are not required to be mandatorily notified.

However, the ability of the merger review mechanism to address issues in the context of a natural monopoly is limited. There may be significant efficiencies in allowing a single company to operate in areas, but the monopoly effects can only be addressed through a clear policy and regulatory framework. The merger review process is not suitable for this purpose. Indeed, it is likely that the continuation of mergers within the industry will only further highlight the need for a regulatory solution.”²⁰

¹⁹ 2018 Market Study, paragraph 2.46.

²⁰ 2018 Market Study, paragraphs 3.50-3.51.

- 2.17 The 2018 Market Study discussed consumers' experience in the household waste collection market in the State as follows:

"A significant number of households do not have a choice of operator and therefore, the normal pressures exerted in a market that is designed to be competitive, do not exist.

Householder buyer power in the market is limited by two factors – not having an alternative provider, and the fact that household waste collection is a standard service, from a consumer's point of view.

Current switching levels suggest that, even in the areas where households do have a choice of operator, consumers are not switching to a degree that would have a meaningful impact on operators.

*A significant number of households cannot or do not avail of a waste collection service. In the current market structure, the viability of operators in a given area is influenced by route density and collection costs. The specific characteristics of sparsely populated or rural areas mean that they are less economically attractive. These characteristics are structural features of the market and are unlikely to change."*²¹

Background to domestic waste collection in the State and in Co. Dublin

- 2.18 From 1983, some local authorities, which previously provided and funded domestic waste collection, began charging for the provision of domestic waste collection. A Government Policy Statement in 1998 entitled "Waste Management – Changing our Ways"²² encouraged local authorities to charge the full costs of waste collection, treatment and disposal to provide an economic incentive for waste reduction to waste generators. Private sector involvement was also

²¹ 2018 Market Study, paragraph 4.30.

²² https://www.epa.ie/publications/licensing--permitting/waste/EPA_changing_our_ways_1998.pdf

encouraged by this policy statement as a method of meeting national waste objectives.

- 2.19 Prior to 2006 in Co. Dublin, the local authorities remained the main provider of domestic waste collection services to households. Private waste collection service providers began entering the market in each local authority area from 2006 onwards.
- 2.20 Between 2010 and 2012, the four Dublin local authorities, Dun Laoghaire-Rathdown County Council, South Dublin County Council (“SDCC”), Fingal County Council (“FCC”) and Dublin City Council (“DCC”) withdrew from providing domestic waste collection services and sold each of their customer bases and assets to private waste collection services providers. Due to some waste collection service providers in Co. Dublin purchasing an entire customer base of a local authority, their operational footprint to this day may be the entirety of a local authority area and so their footprint may correspond to or resemble the local authority area.

3. RELEVANT PRODUCT AND GEOGRAPHIC MARKETS

Introduction

- 3.1 In this section, the Commission identifies the potential product and geographic markets that are relevant for the assessment of the likely competitive effects of the Proposed Transaction. This section sets out the general principles that apply to market definition, the overlaps in the activities of the Parties, and the views of the Parties, and then sets out the Commission's view of the relevant product and geographic markets.
- 3.2 Market definition provides a framework for assessing the competitive effects of a merger; it is a means to an end. The boundaries of a market do not determine the outcome of the analysis of the competitive effects of the merger, as there can be constraints on the merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints will be more significant than others.²³ The Commission has taken such factors into account in its assessment of the competitive effects of the Proposed Transaction, where relevant.

Relevant principles

- 3.3 The role of market definition is explained in the Commission's Merger Guidelines as follows:

*"Market definition is a conceptual framework within which relevant information can be organised for the purposes of assessing the competitive effect of a merger. Identifying the precise relevant market involves an element of judgement. It is often not possible or even necessary to draw a clear line around the fields of rivalry. Indeed, it is often possible to determine a merger's likely impact on competition without precisely defining the boundaries of the relevant market."*²⁴

²³ Guidelines for Merger Analysis, adopted by the Commission on 31 October 2014 (the "Merger Guidelines"), paragraphs 2.1 and 2.3, available [here](#).

²⁴ Merger Guidelines, paragraph 2.3.

“Market definition depends on the specific facts, circumstances, and evidence of the particular merger under investigation. Decisions relating to market definition in previous merger investigations by the Commission may provide only limited guidance.”²⁵

3.4 According to the Merger Guidelines:

“The relevant product market is defined in terms of products rather than producers. It is the set of products that customers consider to be close substitutes. In identifying the relevant product market, the Commission will pay particular attention to the behaviour of customers, i.e., demand-side substitution. Supply-side substitution (i.e., the behaviour of existing and/or potential suppliers in the short term) may also be considered.”²⁶

3.5 The relevant market contains the most significant alternatives available to the customers of the merging parties. Identifying the precise relevant market involves an element of judgement, with appropriate weight being given to factors on both the demand- and supply-side.²⁷

3.6 The Merger Guidelines note that:

“Whether or not a product is a close substitute of a product supplied by one or more of the merging parties will depend on the willingness of customers to switch from one product to the other in response to a small but significant and non-transitory increase in price (or an equivalent decrease in quality). This will involve an assessment of the characteristics and functions of the products in question.”²⁸

3.7 The standard economic test for defining the relevant market is the small but significant non-transitory increase in price (“SSNIP”) test. The SSNIP test seeks to identify the smallest group of products and geographic areas within which a hypothetical monopolist could profitably impose a SSNIP without a sufficient

²⁵ Merger Guidelines, paragraph 2.6.

²⁶ Merger Guidelines, paragraph 2.8.

²⁷ See the Merger Guidelines, paragraph 2.3.

²⁸ Merger Guidelines, paragraph 2.9.

number of consumers/service purchasers switching to alternative products to render the price increase non-profitable. However, the Commission notes that the SSNIP test is just one of the tools used in defining the relevant product market, and its applicability varies depending on pricing practices in the sector. A substantial emphasis should also be placed on product characteristics, price and intended use as well as observed substitution patterns between various products that can potentially be included in the same product market.

3.8 The Merger Guidelines also note that:

“Market definition should not restrict the range of competitive effects to be assessed by the Commission in its merger review. The Commission may consider segmentation within the relevant product or geographic market or factors outside the relevant market which impose competitive constraints on firms in the relevant market.”²⁹

3.9 Ultimately, the Commission’s definition of the relevant market or markets *“depends on the specific facts, circumstances, and evidence of the merger under investigation”*.³⁰

3.10 In relation to geographic market definition, the Merger Guidelines state:

“The product market(s) affected by a merger may be geographically bounded if geography limits some customers’ willingness or ability to switch products or some suppliers’ willingness or ability to supply to customers. The relevant geographic market is usually defined in terms of the location of suppliers and it includes those suppliers that customers consider to be feasible substitutes. The relevant geographic market may be local, regional, national or wider.

²⁹ Merger Guidelines, paragraph 2.1.

³⁰ Merger Guidelines, paragraph 2.6.

The approach to defining the relevant geographic market is similar to that of product market definition. Both can use the SSNIP test as an analytical tool.

The relevant geographic market consists of all supply locations that would have to be included for the hypothetical monopolist to find it profitable to impose a small but significant non-transitory increase in price. Beginning with the location of each of the merging parties, the SSNIP test is applied by considering what would happen if a hypothetical monopolist of the relevant product at that location imposed a small but significant non-transitory increase in price. If a sufficient number of customers switch to suppliers in other locations, the next closest location where customers can purchase the relevant product is included. The SSNIP test is thus iteratively applied until a hypothetical monopolist could profitably increase the price of the relevant product in a location or group of locations by a small but significant non-transitory amount. This location or group of locations is thus defined as the relevant geographic market.”³¹

Horizontal and vertical overlap

3.11 In the Merger Notification Form, the Parties have addressed horizontal and vertical overlaps as follows:

“The horizontal overlaps between the Notifying Parties can be summarised as follows: (i) the supply of domestic waste collection services in DCC, SDCC, and FCC; (ii) the supply of waste collection services to single-site C&I customers in the GDA; and (iii) the provision of waste collection services to multi-site C&I customers in the GDA.”³²

“A potential vertical relationship arises in so far as Thorntons Recycling provides processing to other waste collection operators. While The City Bin Co. does not procure processing services from Thorntons Recycling at present, it could potentially do so. Currently, the City Bin Co. procures

³¹ Merger Guidelines, paragraphs 2.19 – 2.21.

³² Merger Notification Form, section 4.

approximately █% of its processing requirements across █ from █ and █% from █, in each case at locations in █.³³

Relevant product markets

Previous decisions

3.12 The Commission has previously considered several mergers in the waste collection and waste processing sectors that are of some relevance to its assessment of the Proposed Transaction. The following are included as background to the current assessment.

3.13 In its determination in *M/16/008 – PandaGreen/Greenstar*, the Commission considered that the following were relevant product markets: a) the supply of domestic waste collection services; b) the supply of waste collection services to individual C&I customers; c) the supply of waste collection services to multi-site C&I customers; d) the processing of waste collected from domestic and C&I customers; and e) the market for the supply (for sale) of recyclable materials.³⁴ In *M/21/016 – Pandagreen/Exomex*, the Commission followed a similar approach and assessed the competitive impact of the transaction by reference to the following potential product markets: a) the supply of domestic waste collection services; b) the supply of individual C&I waste collection services³⁵; c) the processing of waste collected from domestic and C&I customers; d) the supply (for sale) of non-glass recyclable materials; and e) the management of local authority civic amenity sites.^{36 37}

Views of the Parties

³³ Merger Notification Form, section 4.2.

³⁴ See paragraphs 3.5-3.8 of the Commission's determination in *M/16/008 – Pandagreen/Greenstar*, which can be accessed at: https://www.ccpcc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf.

³⁵ The parties to this transaction did not overlap in the supply of waste collection services to multi-site C&I customers.

³⁶ See paragraphs 45-50 of the Commission's determination in *M/21/016 – Pandagreen/Exomex*, which can be accessed at: <https://www.ccpcc.ie/business/wp-content/uploads/sites/3/2021/04/M.21.016-Pandagreen-Exomex-Public-Determination.pdf>

³⁷ Note, Thorntons Recycling and The City Bin Co are not active in: (i) the supply (for sale) of non-glass recyclable materials; and (ii) the management of local authority civic amenity sites.

3.14 In the Merger Notification Form, the Parties stated that they considered the following to be the relevant product markets:

- the supply of domestic waste collection services;
- the supply of waste collection services to single-site C&I customers;
- the supply of waste collection services to multi-site C&I customers; and
- the processing of waste collected from domestic and C&I customers.³⁸

Views of the Commission

3.15 Taking into account all the evidence and information in its possession, the Commission sees no reason to depart from its prior approach to product market definition as set out in its merger determinations in *M/16/008 – PandaGreen/Greenstar* and *M/21/016 – Pandagreen/Exomex*. The Commission notes that the Parties agreed with this approach to product market definition. The Commission therefore considers that, for the purpose of its review of the competitive effects of the Proposed Transaction, the following are relevant product markets:

- the supply of domestic waste collection services;
- the supply of waste collection services to single-site C&I customers;³⁹
- the supply of waste collection services to multi-site C&I customers; and
- the processing of waste collected from domestic and C&I customers.

Relevant geographic markets

Previous decisions

³⁸ Merger Notification Form, section 5.1.

³⁹ In this Determination, individual C&I customers may be alternatively referred to as “single-site C&I customers”.

- 3.16 In relation to the supply of domestic waste collection services, the Commission defined the relevant geographic market as follows in its determination in *M/16/008 – PandaGreen/Greenstar*:

“based on the Commission’s analysis, submissions from third parties, market enquiries and the information supplied by the parties (in particular the responses to certain RFI questions), the Commission concludes that each of the local authority areas within the GDA constitutes a relevant geographic market for the supply of domestic waste collection services.”⁴⁰

- 3.17 In its determination in *M/21/016 - Pandagreen/Exomex*, the Commission reached the following conclusion on the relevant geographic market for the supply of domestic waste collection services:

“In this instance, the Commission considers that it is not necessary to define precise relevant geographic markets. For the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has focused on the areas in Co. Louth where the Parties are both active in the supply of domestic waste collection services in the State, i.e., the Overlapping Area.”⁴¹

- 3.18 In relation to the relevant product markets listed in paragraph 3.13 above, the Commission, without coming to a definitive view on the precise relevant geographic market, expressed the following view in its determination in *M/16/008 – PandaGreen/Greenstar*:

⁴⁰ See paragraph 3.24 of merger determination *M/16/008 – Pandagreen/Greenstar* which can be accessed at: https://www.ccpic.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf

⁴¹ See paragraph 61 of merger determination *M/21/016 – Pandagreen/Exomex* which can be accessed at: <https://www.ccpic.ie/business/wp-content/uploads/sites/3/2021/04/M.21.016-Pandagreen-Exomex-Public-Determination.pdf>

“third party submissions, market enquiries and information supplied by the parties suggest that the geographic scope of the relevant markets may be the GDA or possibly larger than the GDA.”⁴²

Views of the Parties

- 3.19 In the Merger Notification Form, the Parties stated the following in relation to the supply of domestic waste collection services:

“relevant geographic markets with respect to the supply of domestic waste collection services are the three local authority areas in which the Notifying Parties overlap, i.e. DCC, SDCC, and FCC.”⁴³

- 3.20 Furthermore, in response to its Phase 1 RFI, The City Bin Co stated the following in relation to the supply of domestic waste collection services:

“The City Bin Co sees no evidential basis for any narrower approach to the relevant geographic scope of domestic waste collection in Co. Dublin than the local authority approach supported by precedent. Indeed, The City Bin Co considers that any narrower approach, such as analysis of the conditions of competition within postcodes in Co. Dublin, would be at odds with the economic dynamics of the domestic waste collection market, including supply side substitutability between postcodes. Not least, most of these postcodes are far too small in terms of square kilometres to constitute a relevant geographic market.”⁴⁴

- 3.21 In the Merger Notification Form, the Parties stated the following in relation to the supply of waste collection services to single-site C&I customers:

“the GDA is the relevant geographic market.”⁴⁵

⁴² Paragraph 3.25 of the Commission’s determination in M/16/008 – Pandagreen/Greenstar, which can be accessed at: https://www.ccpcc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf

⁴³ Merger Notification Form, section 5.1.

⁴⁴ See The City Bin Co Phase 1 RFI Response, page 4.

⁴⁵ Merger Notification Form, section 5.1

- 3.22 In the Merger Notification Form, the Parties stated the following in relation to the supply of waste collection services to multi-site C&I customers:

“the relevant [geographic] market is at least the GDA.”⁴⁶

- 3.23 In the Merger Notification Form, the Parties stated, in relation to the processing of waste collected from domestic and C&I customers, that the competitive assessment should be made:

“using the GDA as the frame of reference but subject to the caveat that the geographic market is even wider and could be near national.”⁴⁷

Views of the Commission

The supply of domestic waste collection services

- 3.24 As noted in paragraph 2.19 of the Merger Guidelines, *“The relevant geographic market is usually defined in terms of the location of suppliers and it includes those suppliers that customers consider to be feasible substitutes. The relevant geographic market may be local, regional, national or wider.”*
- 3.25 As noted above (and illustrated in Figure 2 below), there is a horizontal overlap between the Parties in the supply of domestic waste collection services in certain areas of Co. Dublin.
- 3.26 As can be seen in Figure 1 below, Thorntons Recycling, shaded in red, provides domestic waste collection services in SDCC and DCC, and, to a much lesser extent, DL RCC and FCC.⁴⁸ Thorntons Recycling provides domestic waste collection services across the entirety of SDCC. In DCC, Thorntons Recycling only provides domestic waste collection services south of the River Liffey in the following areas: Dublin 8, Dublin 12, Dublin 6 and Dublin 6W.

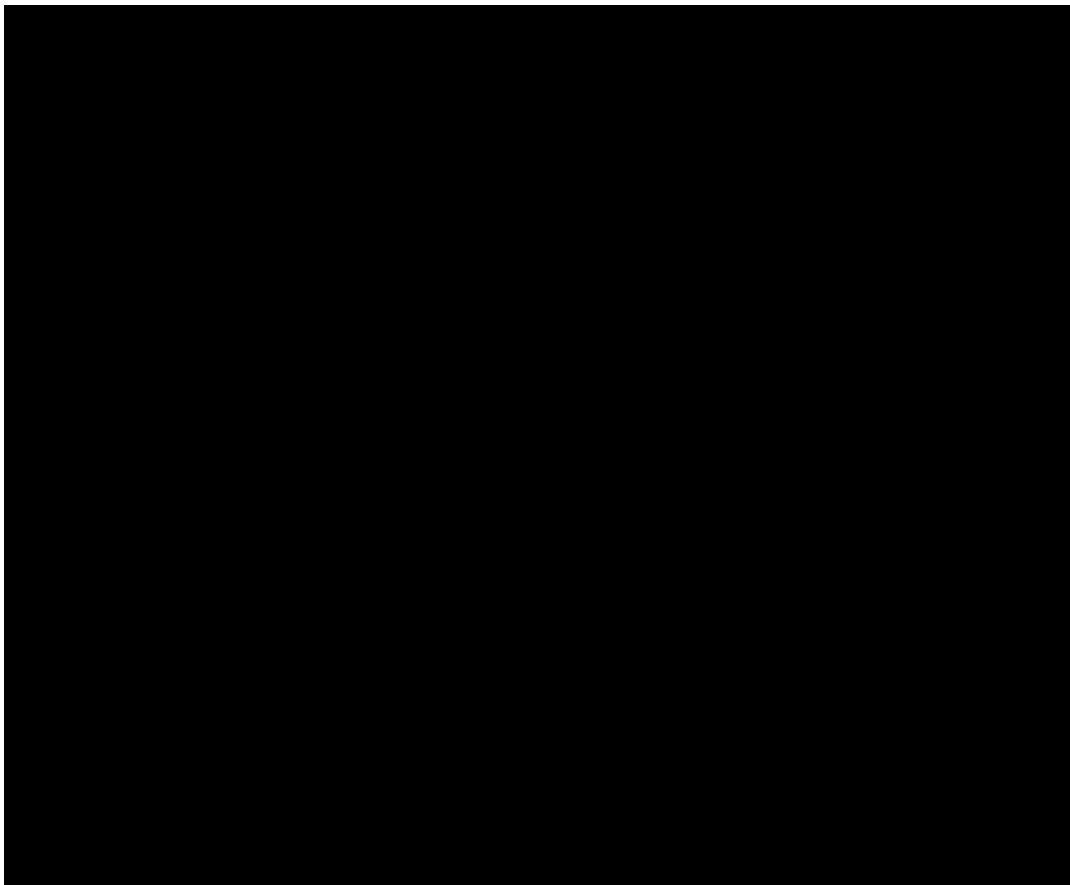
⁴⁶ Merger Notification Form, section 5.1

⁴⁷ Merger Notification Form, section 5.1

⁴⁸ Thorntons Recycling’s activities in the supply of domestic waste collection services in FCC are confined to parts of Clonsilla, Blanchardstown and Lucan.

3.27 As can be seen in Figure 1 below, The City Bin Co, shaded in blue, provides domestic waste collection services in DCC, SDCC, and, to a much lesser extent, FCC.⁴⁹ Approximately █% of City Bin’s domestic waste collection customers in Co. Dublin are located in DCC. The City Bin Co services domestic waste collection customers across the majority of DCC. In SDCC, The City Bin Co provides domestic waste collection services in the following areas: Dublin 14, Dublin 16, Dublin 24, and K78 (Lucan).

Figure 1: The areas in Co. Dublin in which Thorntons Recycling and The City Bin Co provide domestic waste collection services



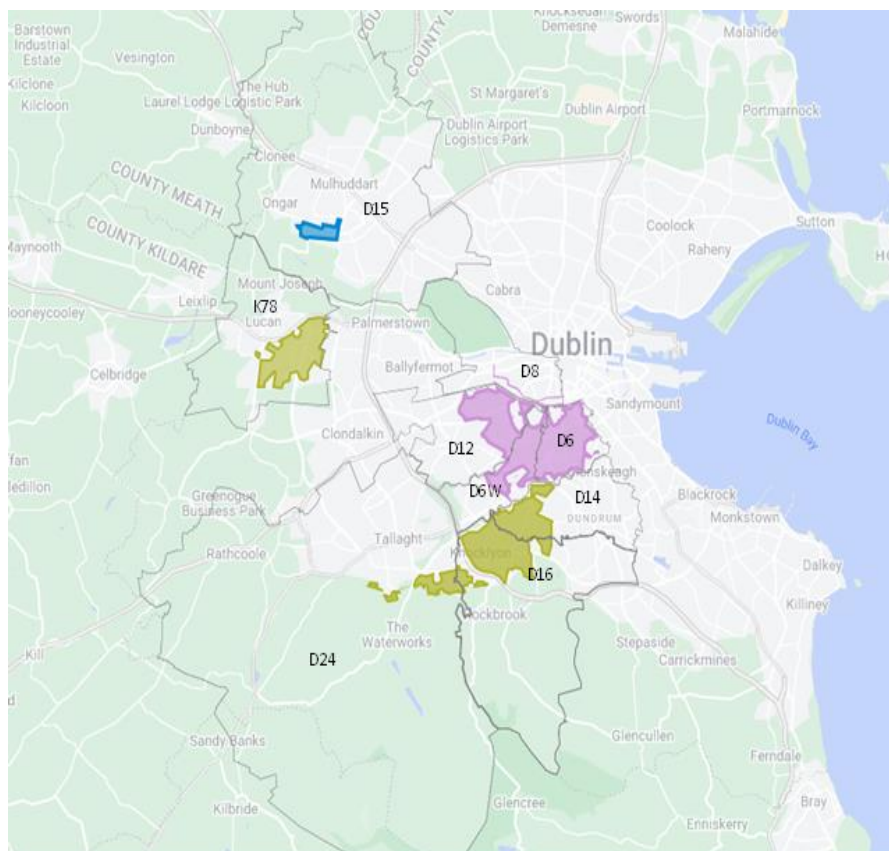
Source: The Parties

3.28 Figure 2 below illustrates the areas in Co. Dublin where both Thorntons Recycling and The City Bin Co supply domestic waste collection services (the “Overlapping

⁴⁹ The City Bin Co’s activities in the supply of domestic waste collection services in FCC are confined to Dublin 15.

Areas”). The Overlapping Areas are located in parts of nine postcodes within Co. Dublin, and across three of the local authority areas. In particular, the Overlapping Areas comprise the following areas in Co Dublin: (i) an area of Clonsilla, Dublin 15, which is in FCC; (ii) parts of the post codes K78, Dublin 24, Dublin 16, and Dublin 14, which are in SDCC; and (ii) parts of the post codes Dublin 6, Dublin 6W, Dublin 8 and Dublin 12, which are in DCC.

Figure 2: The Overlapping Areas, where both Thorntons Recycling and The City Bin Co provide domestic waste collection services in Co. Dublin.



Source: The Parties

3.29 The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, for the reasons set out below, the Commission considers that it is not necessary to define precise relevant geographic markets. For the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has focused on the areas in Co. Dublin

where the Parties are both active in the supply of domestic waste collection services, i.e., the Overlapping Areas.

- 3.30 This follows the approach of the Commission to geographic market definition as described in its merger determinations in both *M/21/016 – Pandagreen/Exomex* and *M/16/008 – PandaGreen/Greenstar*. In both determinations, the Commission analysed the competitive impact of the relevant transaction in the geographic areas where the merging parties both supplied domestic waste collection services.
- 3.31 As noted above, in *M/21/016 – Pandagreen/Exomex*, the Commission reached the following conclusion on the relevant geographic market in paragraph 61 of its determination: *“For the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has focused on the areas in Co. Louth where the Parties are both active in the supply of domestic waste collection services in the State, i.e., the Overlapping Area.”*⁵⁰
- 3.32 Similarly, in its determination in *M/16/008 – PandaGreen/Greenstar*, the Commission analysed the competitive impact of that transaction in the local authority areas within the Greater Dublin Area where both Pandagreen and Greenstar provided domestic waste collection services, namely FCC and DLRCC. As noted by the Commission in paragraph 4.14 of that determination: *“the only local authority areas within the GDA in which there is a significant overlap between the parties for the supply of domestic waste collection services are the Dun Laoghaire-Rathdown and Fingal local authority areas”*.⁵¹
- 3.33 While the Commission concluded in paragraph 3.24 of its determination in *M/16/008 – PandaGreen/Greenstar* that *“each of the local authority areas within the GDA constitutes a relevant geographic market for the supply of domestic waste collection services”*, the Commission also noted in footnote 35 of that determination that *“market enquiries suggested that it is possible that local*

⁵⁰ Paragraph 61 of the Commission’s determination in *M/21/016 – Pandagreen/Exomex*, which can be accessed at: <https://www.ccpcc.ie/business/wp-content/uploads/sites/3/2021/04/M.21.016-Pandagreen-Exomex-Public-Determination.pdf>

⁵¹ Paragraph 4.14 of the Commission’s determination in *M/16/008 – Pandagreen/Greenstar*, which can be accessed at: https://www.ccpcc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf

markets that are geographically smaller than a local authority area could be identified". In the present case, the Commission has not analysed the likely competitive impact of the Proposed Transaction by reference to any of the local authority areas within the GDA where the Parties both supply domestic waste collection services, namely DCC, SDCC, and FCC. This is because, unlike in *M/16/008 – PandaGreen/Greenstar*, the areas where the Parties are both active do not coincide fully with the boundaries of any of the local authority areas within the GDA (as can be clearly seen in Figure 2 above).

- 3.34 The Commission considers that the relevant geographic market for the supply of domestic waste collection services may be geographically smaller than each of the local authority areas in the GDA taken separately. This is principally because, from a demand-side substitution perspective, domestic waste collection customers are generally limited to choosing between those providers that service their street or within a very limited radius of their street. This would suggest that the boundaries of the relevant geographic market for domestic waste collection services may be quite narrow.⁵² The Commission, however, does not need to come to a definitive view on the precise boundaries of the relevant geographic market in this case since its conclusions on the likely competitive impact of the Proposed Transaction would be unaffected whether the geographic market was defined on a narrower basis (e.g., by reference to very limited local geographic markets) or a broader basis (e.g., by reference to each of the Overlapping Areas or, more broadly again, by reference to each of the three relevant local authority areas in the GDA taken separately).
- 3.35 In conclusion, taking into account previous merger determinations by the Commission and all the evidence and information in its possession, the Commission has analysed the likely competitive impact of the Proposed Transaction in the supply of domestic waste collection services in each of the Overlapping Areas.

⁵² The Commission notes that, in terms of supply side substitution, the geographic market may be slightly wider than the Overlapping Areas, but it was not necessary to consider this as the Commission has analysed the narrowest potential geographic market effected by the Proposed Transaction.

The supply of waste collection services to single-site C&I customers

3.36 Taking into account all the evidence and information in its possession, the Commission sees no reason to depart from its approach to geographic market definition as set out in its merger determination in *M/16/008 – PandaGreen/Greenstar*. The Commission has therefore, without coming to a definitive view on the precise relevant geographic market, assessed the likely competitive impact of the Proposed Transaction in the following potential geographic market: the supply of waste collection services to single-site C&I customers in the GDA.

The supply of waste collection services to multi-site C&I customers

3.37 Taking into account all the evidence and information in its possession, the Commission sees no reason to depart from its approach to geographic market definition as set out in its merger determination in *M/16/008 – PandaGreen/Greenstar*. The Commission has therefore, without coming to a definitive view on the precise relevant geographic market, assessed the likely competitive impact of the Proposed Transaction in the following potential geographic market: the supply of waste collection services to multi-site C&I customers in the GDA.

The processing of waste collected from domestic and C&I customers

3.38 Taking into account all the evidence and information in its possession, the Commission sees no reason to depart from its prior approach to geographic market definition as set out in its merger determination in *M/16/008 – PandaGreen/Greenstar*. The Commission has therefore, without coming to a definitive view on the precise relevant geographic market, assessed the likely competitive impact of the Proposed Transaction in the following potential geographic market: the processing of waste collected from domestic and C&I customers in the GDA.

Conclusion on relevant geographic markets

3.39 The Commission has assessed the likely competitive impact of the Proposed Transaction in the following potential geographic markets:

- the supply of domestic waste collection services in each of the Overlapping Areas;
- the supply of waste collection services to single-site C&I customers in the GDA;
- the supply of waste collection services to multi-site C&I customers in the GDA; and
- the processing of waste collected from domestic and C&I customers in the GDA.

Overall conclusion on relevant market definition

3.40 For the purposes of its competitive analysis of the horizontal overlaps that exist between the Parties, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential markets (together the “Relevant Potential Markets”):

- the supply of domestic waste collection services in each of the Overlapping Areas;
- the supply of waste collection services to single-site C&I customers in the GDA; and
- the supply of waste collection services to multi-site C&I customers in the GDA.

3.41 For the purposes of its competitive analysis of the vertical relationship that exists between the Parties, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential market:

- the processing of waste collected from domestic and C&I customers in the GDA.

4. RELEVANT COUNTERFACTUAL

Introduction

4.1 The test in section 22(3) of the Act – namely, whether, or not, the merger or acquisition will result in a substantial lessening of competition (“SLC”) in markets for goods or services in the State – requires an assessment of the effects of a merger or acquisition on the state of competition in a relevant market. In assessing the likely effects of a merger on competition, the Commission, as in the present case, typically compares the situation that may be expected to arise following the merger with that which would have prevailed without the merger. The market situation without the merger is often referred to as the “counterfactual”. The Commission generally adopts the prevailing conditions of competition as the counterfactual against which it assesses the impact of the merger.⁵³

4.2 Paragraph 1.12 of the Merger Guidelines states as follows:

“The term ‘counterfactual’ refers to the state of competition without the merger or acquisition. In other words the “actual” situation is the merger being put into effect and the “counterfactual” is the situation in the absence of the merger being put into effect. The counterfactual provides the reference point, or the point of comparison, for assessing competitive effects arising from a merger.”

4.3 Inevitably there is a degree of uncertainty as regards hypothetical future events, and the Commission will consider all the evidence adduced by parties as to whether there is likely to be an SLC in the future. The Commission must ultimately ask itself whether it is satisfied on the balance of probabilities that there will be an SLC caused by the merger. The Commission is, however, not under an obligation to make findings of fact (whether on a balance-of-probabilities basis or otherwise) in respect of each item of evidence. Nor is it obliged to find that any particular

⁵³ See paragraphs 1.12 – 1.15 of the Merger Guidelines.

potential event is more likely than not to occur before it can take it into account in its overall assessment of the probability of an SLC.

4.4 Paragraph 1.15 of the Merger Guidelines states that:

“[T]he Commission will expect the merging parties to substantiate any counterfactual they propose with objective evidence supported, where necessary, by independent expert analysis. Such evidence and analysis should obviously be consistent with the parties’ own internal pre-merger assessments of the likely counterfactual.”

Views of the Parties and third parties

4.5 In an appendix to the Merger Notification Form, Carducci stated the following in relation to the counterfactual:

*“Carducci considers that in the Counterfactual, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].”*

4.6 The Commission received no communications from third parties explicitly commenting on a counterfactual.

Views of the Commission

4.7 Notwithstanding Carducci’s submissions to the Commission in the above-mentioned annex to the Merger Notification Form, the Commission’s investigation has revealed no evidence to suggest that a relevant counterfactual other than the prevailing conditions of competition would be the appropriate counterfactual against which the Proposed Transaction should be assessed.

The Commission’s conclusion on the relevant counterfactual

4.8 Based on the above, for the purposes of assessing the Proposed Transaction, the Commission considers that the relevant counterfactual is that, absent the Proposed Transaction, The City Bin Co would remain in the market and the *status*

quo would prevail. The prevailing conditions of competition would be maintained and The City Bin Co would remain an independent undertaking active in the Relevant Potential Markets set out in Section 3 of this Determination.

5. COMPETITIVE ASSESSMENT: HORIZONTAL EFFECTS

Introduction

- 5.1 In this section, the Commission sets out its assessment of the competitive impact of the Proposed Transaction in each of the Relevant Potential Markets identified in Section 3 above.
- 5.2 Unilateral effects, as explained in paragraph 4.8 of the Merger Guidelines, occur when *“a merger results in the merged entity having the ability and the incentive to raise prices at its own initiative and without coordinating with its competitors.”*
- 5.3 In addition, the European Commission’s Guidelines on the assessment of horizontal mergers state the following in respect of *“Non-coordinated effects”*:

“A merger may significantly impede effective competition in a market by removing important competitive constraints on one or more sellers, who consequently have increased market power. The most direct effect of the merger will be the loss of competition between the merging firms. For example, if prior to the merger one of the merging firms had raised its price, it would have lost some sales to the other merging firm. The merger removes this particular constraint. Non-merging firms in the same market can also benefit from the reduction of competitive pressure that results from the merger, since the merging firms’ price increase may switch some demand to the rival firms, which, in turn, may find it profitable to increase their prices. The reduction in these competitive constraints could lead to significant price increases in the relevant market.”⁵⁴

Relevant Potential Markets in which the Proposed Transaction raises no competition concerns

⁵⁴ Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2004) OJ C 31, p 5–18, paragraph 24 (available [here](#)).

5.4 For the reasons set out below, the Commission has concluded that the Proposed Transaction raises no competition concerns in two of the Relevant Potential Markets identified in Section 3. These Relevant Potential Markets are:

- (a) the supply of waste collection services to single-site C&I customers in the GDA; and
- (b) the supply of waste collection services to multi-site C&I customers in the GDA.

The supply of waste collection services to single-site C&I customers in the GDA

Structure of potential market

5.5 The Parties have provided estimates of shares of the potential market for the supply of waste collection services to single-site C&I customers in the GDA, as shown in Table 1 below:

Table 1: Estimates of shares of the potential market for the supply of waste collection services to single-site C&I customers in the GDA, 2021

Provider	Estimated share of potential market (%)
Thorntons Recycling	[20-25] %
The City Bin Co	[0-5] %
Combined	[20-30] %
Pandagreen	[25-30] %
Key Waste Management Limited ("Key Waste")	[15-20] %
Bord na Móna Recycling Limited ("Bord na Móna")	[5-10] %
Allied Recycling	[5-10] %
Oxygen Environmental Unlimited Company ("Oxygen")	[5-10] %

Greyhound Household Unlimited Company ("Greyhound")	[5-10] %
Advanced Waste Recycling Limited ("Advanced Waste")	[0-5] %
M50 Skip Hire & Recycling Limited ("M50")	[0-5] %
TOTAL	100

Source: Merger Notification Form

Views of the Parties

- 5.6 The Parties stated the following in the Merger Notification Form in relation to the supply of waste collection services to both single-site and multi-site C&I customers:

*"Based on the number and capacity of providers of these services, the Notifying Parties submit that no concern arises. In overall terms, the C&I collections sector (i.e. combining single-site and multisite) is characterised by a significant number of players of which PandaGreen and Key Waste are the most significant rivals to the Notifying Parties. As the CCPC itself pointed out in its determination in relation to Thorntons/A-Plus, there are multiple suppliers of waste collection services to single-site C&I customers. Among those remaining post the Proposed Transaction in addition to PandaGreen and Key Waste are [Bord na Móna], Advanced Waste, and Allied Recycling. In addition, barriers to switching are extremely low. As such, no competition concern arises."*⁵⁵

Views of the Commission

- 5.7 The Commission considers that the Proposed Transaction is unlikely to give rise to unilateral effects in the potential market for the supply of waste collection services to single-site C&I customers in the GDA for the reasons set out below.

⁵⁵ Merger Notification Form, page 32.

- 5.8 First, following the implementation of the Proposed Transaction, Thorntons Recycling's share of the potential market for the supply of waste collection services to single-site C&I customers in the GDA will increase by only 4 percentage points (from ■% to ■%)
- 5.9 Second, as illustrated in Table 1 above, Thorntons Recycling will continue to face a competitive constraint from a number of other waste collection service providers active in the supply of waste collection services to single-site C&I customers in the GDA. These include Pandagreen ([25-30]%), Key Waste ([15-20]%), Bord na Móna ([5-10]%) and Allied Recycling ([5-10]%).
- 5.10 Third, the Commission contacted a number of customers to which one or both of the Parties supply single-site C&I waste collection services. The majority of those who responded to the Commission's questionnaire were of the view that there would remain a sufficient choice in the number of suppliers of waste collection services for single-site C&I customers in the GDA following the implementation of the Proposed Transaction.

Conclusion

- 5.11 In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the supply of waste collection services to single-site C&I customers in the GDA.

The supply of waste collection services to multi-site C&I customers in the GDA

Structure of potential market

Table 2: Estimates of shares of the potential market for the supply of waste collection services to multi-site C&I customers in the GDA, 2021

Provider	Estimated share of potential market (%)
Thorntons Recycling	[20-25] %
The City Bin Co	[0-5] %
Combined	[20-30] %

Pandagreen	[35-40] %
Key Waste	[15-20] %
Bord na Móna	[5-10] %
Greyhound	[5-10] %
Allied Recycling	[0-5] %
M50	[0-5] %
Oxigen	[0-5] %
TOTAL	100

Source: Merger Notification Form

Views of the Parties

- 5.12 As noted above, the Parties stated the following in the Merger Notification Form in relation to the supply of waste collection services to single-site and multi-site C&I customers:

“Based on the number and capacity of providers of these services, the Notifying Parties submit that no concern arises. In overall terms, the C&I collections sector (i.e. combining single-site and multisite) is characterised by a significant number of players of which PandaGreen and Key Waste are the most significant rivals to the Notifying Parties.”

- 5.13 The Parties went on to state, in relation to the supply of waste collection services to multi-site C&I customers:

“Among the operators that will continue to be active are PandaGreen, [Bord na Móna], Key Waste, Access Waste, Greyhound and Allied Recycling. As such, no competition concern arises.”⁵⁶

Views of the Commission

⁵⁶ Merger Notification Form, pages 32 – 33.

- 5.14 The Commission considers that the Proposed Transaction is unlikely to give rise to unilateral effects in the potential market for the supply of waste collection services to multi-site C&I customers in the GDA for the reasons set out below.
- 5.15 First, following the implementation of the Proposed Transaction, Thorntons Recycling's share of the potential market for the supply of waste collection services to multi-site C&I customers will increase by only 5 percentage points (from ■% to ■%).
- 5.16 Second, as illustrated in Table 2 above, Thorntons Recycling will continue to face a competitive constraint from a number of other waste collection service providers active in the supply of waste collection services to multi-site C&I customers in the GDA. These include Pandagreen ([35-40]%), Key Waste ([15-20]%), Bord na Móna ([5-10]%) and Greyhound ([5-10]%).
- 5.17 Third, the Commission contacted a number of customers to which one or both of the Parties supply multi-site C&I waste collection services. The majority of those who responded to the Commission's questionnaire were of the view that there would remain a sufficient choice in the number of suppliers of waste collection services for multi-site C&I customers in the GDA following the implementation of the Proposed Transaction.

Conclusion

- 5.18 In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the supply of waste collection services to multi-site C&I customers in the GDA.

Relevant Potential Markets in which the Commission has identified potential competition concerns arising from the Proposed Transaction

- 5.19 The Commission identified potential competition concerns in the potential markets for the supply of domestic waste collection services in each of the Overlapping Areas. As the Commission's competition concerns are the same for each potential market for the supply of domestic waste collection services in each

of the Overlapping Areas, these potential markets of Overlapping Areas are discussed together below.

Structure of potential markets

5.20 Based on information provided by the Parties, and its contact with third parties, the Commission has estimated shares of domestic waste collection services in three local authority areas: Dublin City Council (DCC); South Dublin City Council (SDCC); and Finglas County Council (FCC). Tables 3 to 5 below show these estimates.

Table 3: Estimates of shares of the potential market for the supply of domestic waste collection services in DCC, 2022

Provider	Estimated share (%)
Thorntons Recycling	[5-10] %
The City Bin Co	[30-35] %
Combined	[35-45] %
Greyhound	[60-65] %
Advanced	[0-5] %
TOTAL	100

Source: The Commission's analysis, based on information provided by the Parties and third parties.

Table 4: Estimates of shares of the potential market for the supply of domestic waste collection services in SDCC, 2022

Provider	Estimated share (%)
Thorntons Recycling	[30-35] %
The City Bin Co	[5-10] %
Combined	[35-45] %
Greyhound	[55-60] %
Advanced Waste	[0-5] %
TOTAL	100

Source: The Commission's analysis, based on information provided by the Parties and third parties.

Table 5: Estimates of shares of the potential market for the supply of domestic waste collection services in FCC, 2022

Provider	Estimated share (%)
Thorntons Recycling	[10-15] %
The City Bin Co	[10-15] %
Combined	[20-30] %
Greyhound	[35-40] %
Pandagreen	[35-40] %
Advanced	[0-5] %
TOTAL	100

Source: The Commission's analysis, based on information provided by the Parties and third parties.

5.21 The Commission notes that the areas covered by the above estimates are wider than the Relevant Potential Markets identified in Section 3 of this Determination as the estimates are for the entire local authority areas and are not limited to the Overlapping Areas. While more precise estimates are not available specifically for the Overlapping Areas, the Commission has further considered the structure of the potential markets within the Overlapping Areas.

Blue Overlapping Area - FCC

5.22 The blue Overlapping Area as shown in Figure 2 above is located in Dublin 15. Aside from the Parties, Pandagreen is the only other domestic waste collection service provider active in the Blue Overlapping Area.

Green Overlapping Areas – SDCC

5.23 The green Overlapping Area in SDCC comprises two separate areas. The first is located in Lucan, in the postcode area K78. Aside from the Parties, Greyhound is the only other domestic waste collection service provider active in this part of the green Overlapping Area. The second covers parts of the following postcodes: Dublin 14, Dublin 16 and Dublin 24. Greyhound is the only other domestic waste collection service provider active in this part of the green Overlapping Area.

Purple Overlapping Areas - DCC

- 5.24 The purple Overlapping Area in DCC covers parts of the following postcodes: Dublin 6, Dublin 6W, Dublin 8 and Dublin 12. Greyhound is the only other domestic waste collection service provider active in the purple Overlapping Area.
- 5.25 This analysis shows that there is one domestic waste collection service provider in each of the Overlapping Areas in addition to the Parties. The Proposed Transaction therefore constitutes a 3-to-2 merger in each of the Overlapping Areas.⁵⁷

Views of the Parties

- 5.26 In the Merger Notification Form, the Parties submitted that:

“in domestic waste collection services in DCC, SDCC and FCC, the Proposed Transaction will not substantially lessen competition and indeed will enhance competition by bolstering the combined entity's ability to expand through the achievement of greater economies of scale and density.”⁵⁸

Views of the Commission

- 5.27 In the course of its analysis of the Proposed Transaction, the Commission identified the following potential competition concerns. The acquisition of Carducci by Thorntons Recycling could weaken competition in the Overlapping Areas. The Proposed Transaction would lead to a reduction in the number of domestic waste collection service providers in each of these areas from three to two. This reduced competition could lead to increased prices and/or lower levels of service.
- 5.28 Evidence provided to the Commission by the Parties and third parties on market entry and expansion suggests that, over the last five years, any entry and expansion in the potential markets for the supply of domestic waste collection services in each of the Overlapping Areas has been primarily by acquisition rather

⁵⁷ The evidence made available to the Commission by third parties confirms that there is one waste operator active in the areas in the Overlapping Areas.

⁵⁸ Merger Notification Form, page 32

than by organic growth.⁵⁹ As discussed in the 2018 Market Study referenced in Section 2 of this Determination, for a new entrant, both fixed costs and the cost of acquiring new customers are high. The pattern across all domestic waste collection markets in the State has been one of consolidation. For these reasons, the Commission does not consider it likely that there will be significant new entry or expansion in the potential markets for the supply of domestic waste collection services in each of the Overlapping Areas.

Proposals submitted by the Parties

- 5.29 Thorntons Recycling submitted the First Draft Proposals to the Commission on 9 May 2023. The Commission considered that these First Draft Proposals did not address the potential competition concerns that had been identified by the Commission.
- 5.30 To address the potential competition concerns identified by the Commission, Thorntons Recycling, on 9 June 2023, submitted the Second Draft Proposals to the Commission. Following receipt of the Second Draft Proposals, the Commission engaged with Thorntons Recycling and its legal advisors.
- 5.31 The Commission market tested the Second Draft Proposals between 14 and 16 June 2023.
- 5.32 On 12 July 2023, Thorntons Recycling submitted the Final Proposals to the Commission. The Final Proposals submitted by Thorntons Recycling include a commitment by Thorntons Recycling to divest a specified number of customers in specified parts of each of the Overlapping Areas to a suitable purchaser. The Final Proposals describe the divestment package and set out the process for appointing a Monitoring Trustee and selecting a suitable purchaser for the divestment package.

⁵⁹ An exception is Thorntons Recycling's entry into the market in Dublin 15 (the Blue Overlapping Area), which was not by acquisition.

5.33 The Commission notes that the divestment package proposed in the Final Proposals is equivalent to the increment⁶⁰ in each of the Overlapping Areas that would have been a consequence of the Proposed Transaction. In the Final Proposals, Thorntons Recycling has committed to divest the increment of customers in the areas of each postcode which are located within the Overlapping Areas, which is illustrated in Table 6 below.

Table 6: The number of customers Thorntons Recycling committed to divest in the area of each postcode which is located within Overlapping Area (Purple, Blue and Green).

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

Source: See the Final Proposals in Annex A

5.34 The Final Proposals are set out below as Annex A to this Determination.

Conclusion

5.35 The Commission is of the view that the Final Proposals are sufficient to address the competition concerns identified by the Commission in the potential markets for the supply of domestic waste collection services in each of the Overlapping Areas. The Commission also notes that the Final Proposals address any potential competition concerns that may exist in the wider geographic areas of DCC, FCC and SDCC. This is because the Final Proposals replace the competition lost within

⁶⁰ In this context, this means the difference between the number of customers of Thorntons Recycling post-Proposed Transaction and the larger of (i) the number of customers of Thorntons Recycling pre-Proposed Transaction or (ii) the number of customers of The City Bin Co pre-Proposed Transaction.

each of the areas in DCC, FCC and SDCC in which The City Bin Co is active. In light of the Final Proposals, it is not necessary for the Commission to come to a conclusion on the competitive effects of the Proposed Transaction in the absence of the Final Proposals. The Commission has taken the Final Proposals into account and the Final Proposals form part of the basis of this determination. In accordance with section 20(3) and section 26(1) and section 26(4) of the Act, the Final Proposals have become commitments binding upon the Parties.

Overall conclusion on horizontal effects

- 5.36 For the reasons set out above, the Commission considers that, taking the Final Proposals into account, the Proposed Transaction does not give rise to horizontal SLC concerns in the State.

6. COMPETITIVE ASSESSMENT: COORDINATED EFFECTS

- 6.1 Coordinated effects can occur where a proposed transaction changes the nature of competition in the relevant market by making it more likely that the merged entity and some, or all, of its competitors will coordinate their behaviour by, for example, raising prices and/or decreasing output. Thus, the key question⁶¹ is whether a proposed transaction would materially increase the likelihood that firms would successfully coordinate their behaviour or would strengthen existing coordination between firms in these potential relevant markets.
- 6.2 Section 5 sets out that, based on the information in the possession of the Commission, the likely effects of the Proposed Transaction are mainly unilateral in nature. The Proposed Transaction, in itself, has not presented a plausible coordinated effects theory of harm.
- 6.3 Therefore, on this basis, the Commission considers that the Proposed Transaction does not raise any coordinated effects concerns in the State.

⁶¹ See paragraph 4.23 of the Merger Guidelines.

7. VERTICAL RELATIONSHIP

7.1 The Commission has identified the following vertical overlap between the activities of the Parties:

- The processing of waste collected from domestic and C&I customers in the GDA: Thorntons Recycling is active in the provision of waste processing services in the GDA, and The City Bin Co currently collects waste from domestic and C&I customers in Co. Dublin.

7.2 Vertical effects can occur where a proposed transaction changes the ability and incentives of the parties involved in the transaction, making it more likely that the merged entity will engage in either customer foreclosure or input foreclosure. Thus, the key question for the Commission to consider is whether a proposed transaction would materially increase the likelihood of customer foreclosure or input foreclosure due to the merger's effects on the merged entity's ability and incentive to foreclose its upstream and/or downstream competitors.⁶²

Input foreclosure

7.3 The Commission considers that the implementation of the Proposed Transaction would not give Thorntons Recycling the ability or the incentive to foreclose waste collection service providers from accessing Thorntons Recycling's waste processing facilities. Should The City Bin Co use Thorntons Recycling to process its waste following the implementation of the Proposed Transaction and so reduce Thorntons Recycling's capacity to provide waste processing services to other waste collection service providers, there are alternative waste processing options available to waste collection service providers. In response to the Phase 1 RFIs, the Parties informed the Commission that other waste companies are active in processing third parties' waste in the GDA including Bord na Móna, Greyhound,

⁶² See the Merger Guidelines, paragraphs 5.7 – 5.17.

Pandagreen, and Oxigen. Waste collection service providers can also send unprocessed waste to the Dublin Waste-to-Energy facility on a “spot” basis.⁶³

Customer foreclosure

7.4 The Commission considers that the implementation of the Proposed Transaction would not give Thorntons Recycling the ability or the incentive to foreclose waste processors in the GDA. Should, following the implementation of the Proposed Transaction, The City Bin Co send the waste it collects from domestic and C&I customer to Thorntons Recycling, instead of to [REDACTED] which currently processes its waste, there will remain a number of other sources of domestic and C&I waste for [REDACTED] and other waste processors to process. Across the GDA, there are a number of waste collection service providers active in domestic and C&I waste collection including: Key Waste, Greyhound, Oxigen, M50, Advanced Waste, Allied Recycling, and Bord na Móna. Pandagreen informed the Commission of the identities of its current waste processing customers: those customers include Thorntons Recycling as well as many other waste collection service providers who also operate their own waste processing facilities.

Conclusion

7.5 In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

⁶³ Dublin Waste-to-Energy has a limited availability of “spot waste” capacity whereby waste operators can dispose of waste at the facility without a contract.

8. EFFICIENCIES

8.1 Paragraphs 8.1 and 8.2 of the Merger Guidelines state as follows:

“A merger may generate various efficiencies for the merged entity. The Commission’s analysis of efficiencies goes beyond the impact of efficiencies on the merged entity and focuses on whether verifiable efficiencies mitigate adverse competitive effects and prevent an SLC.

The onus rests on the parties to show that claimed efficiencies are (i) merger-specific, (ii) verifiable and (iii) benefit consumers sufficiently to prevent an SLC.”

8.2 The Commission has not received any submission from the Parties on efficiencies which meets the criteria set out in paragraph 8.2 of the Merger Guidelines.

9. CONCLUSION

- 9.1 Having taken into account the Final Proposals submitted by Thorntons Recycling, the evidence available to it, and in light of its analysis as set out in this Determination, the Commission has formed the view that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.
- 9.2 Before making a determination in this matter, the Commission, in accordance with section 22(8) of the Act, has had regard to any relevant international obligations of the State, and concluded that there were none.

10. ANCILLARY RESTRAINTS

- 10.1 The Parties state in the Merger Notification Form that Clause 12 of the SPA contains restrictions which are directly related and necessary to the implementation of the Proposed Transaction.
- 10.2 The Commission notes that Clauses 12.2(a), 12.2(b), and 12.2(d) of the SPA impose certain non-compete and non-solicitation obligations upon [REDACTED] and [REDACTED] for a period of [REDACTED] months. The Commission considers that the duration and scope of these obligations do not exceed the maximum duration and scope acceptable to the Commission. The Commission therefore considers the restrictive obligations contained in Clauses 12.2(a), 12.2(b), and 12.2(d) of the SPA to be directly related and necessary to the implementation of the Proposed Transaction insofar as they relate to the State.
- 10.3 The Commission notes that Clause 12.2(c) of the SPA imposes a non-solicitation obligation upon [REDACTED] and [REDACTED] in respect of *“any person who at the date of this Agreement is an employee, director or officer of a Group Company”*.⁶⁴ The Commission considers that Clause 12.2(c) of the SPA is not directly related and necessary to the implementation of the Proposed Transaction in circumstances where its scope is not limited to any particular categories or groups of employees, directors and/or officers. Therefore, the Commission considers that Clause 12.2(c) of the SPA will not benefit from the protections offered by section 4(8) and 5(3) of the Act.
- 10.4 The Commission notes that Clause 12.3 of the SPA imposes an obligation upon [REDACTED] and [REDACTED] not to use the following in the course of business or trade: (i) *“the name or words “The City Bin Company”, “TCBC” or any name which includes the name “City Bin” or any similar name or words”, (ii) “any (or any similar) trade or service mark, business or domain name, design or logo”* used by any ‘Group Company’ or (iii) anything which is *“capable of confusion with such mark, names, design or logo”*. The Commission

⁶⁴ ‘Group Company’ is defined in the SPA as meaning Carducci or any of its subsidiaries.

considers that Clause 12.3 of the SPA appears to form an integral part of the transfer of ownership of Carducci, rather than an ancillary restraint directly related and necessary to the implementation of the Proposed Transaction. Therefore, the Commission considers that Clause 12.3 of the SPA will not benefit from the protections offered by section 4(8) and 5(3) of the Act to arrangements constituting restrictions which are directly related and necessary to the implementation of a merger or acquisition.

11. 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

ANNEX A: PROPOSALS

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;

"██████████" – means any or all of ██████████ (registered number ██████████), whose registered office is at ██████████, 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 ██████████ on 7 July 2023 and between Thorntons Recycling and ██████████ on 7 July 2023 which relate to the proposed acquisition by ██████████ or ██████████ 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 Padraig 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 [REDACTED] from the Determination, it has entered into a binding contract for the sale of the Divestment Package to [REDACTED] or [REDACTED] (subject to due diligence, regulatory permits and any other necessary conditions not within the control of Thorntons Recycling or [REDACTED] or [REDACTED] provided that such sale is completed within [REDACTED] 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, [REDACTED] or [REDACTED] 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 [REDACTED] or [REDACTED] 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 [REDACTED] 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 [REDACTED] 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 [REDACTED] or [REDACTED], 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 [REDACTED] and / or [REDACTED] as a Suitable Purchaser of the Divestment Package. In the event that the CCPC withdraws its approval of [REDACTED] and / or [REDACTED] 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 [REDACTED] of the occurrence of any one of these events:
 - a. if the CCPC withdraws its approval of the suitability of [REDACTED] and / or [REDACTED] 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 [REDACTED] and / or [REDACTED]

- ██████████ has exercised its rights in accordance with the Heads of Agreement not to proceed with the acquisition of the Divestment Package;
- c. if ██████████ (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 ██████████ or ██████████ for the disposal of the Divestment Package; or
 - d. if, having entered into a binding agreement with ██████████ or ██████████ for the acquisition of the Divestment Package, Thorntons Recycling informs the CCPC, pursuant to paragraph 4 of these Proposals, that ██████████ or ██████████ 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 ██████████ 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] [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] [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] [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] 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];

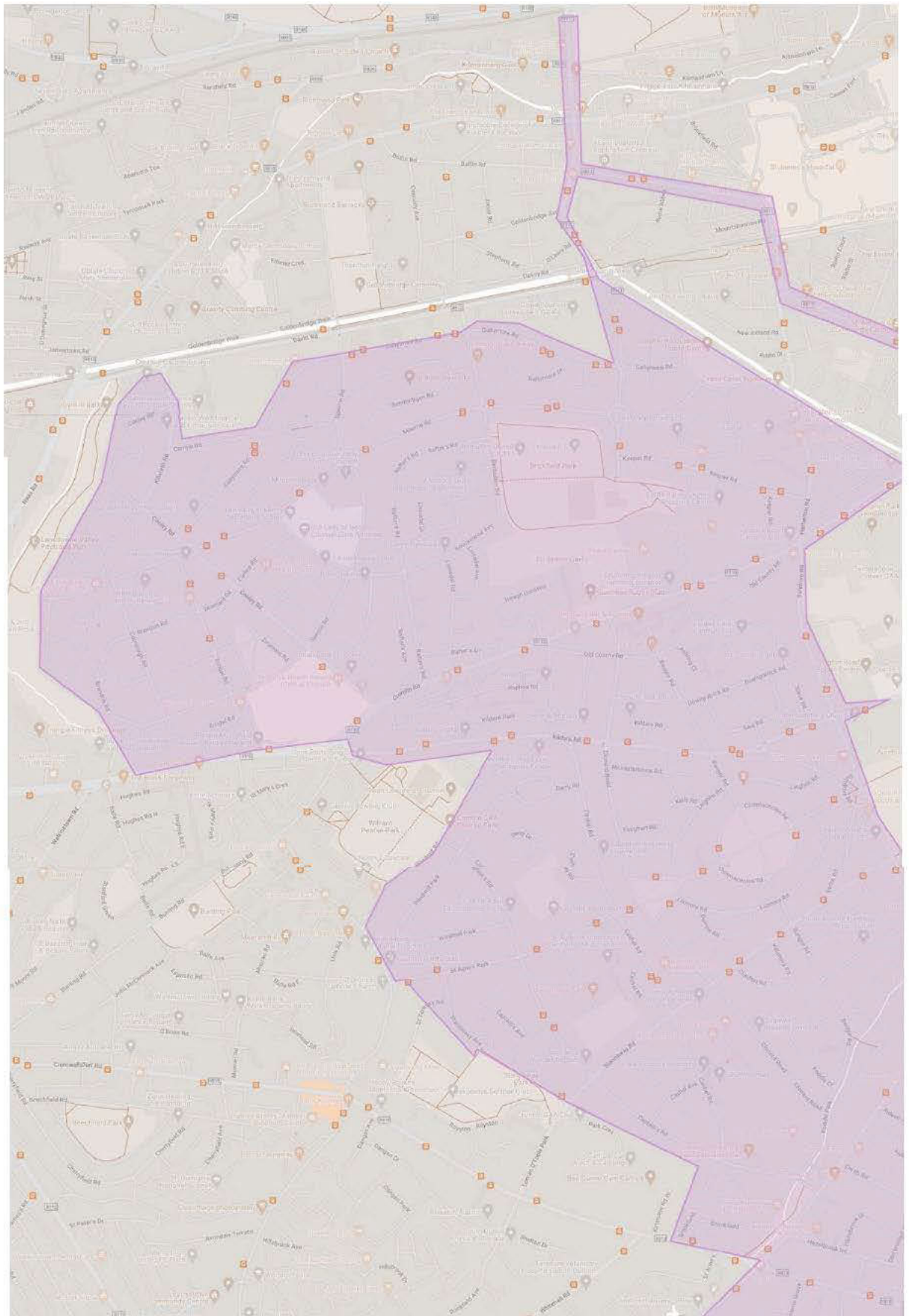
Overlapping Area	Postcode	Overlapping Area Size (km ²)	Number of customers to divest
10.	Dublin 6	5	336
11.	Dublin 6W	3	778
12.	Dublin 8	0.2	33
13.	Dublin 12	4	1,188
14.	Dublin 15	1	92
15.	Dublin 14	3	754
16.	Dublin 16	5	1,724
17.	Dublin 24	2	824
18.	Lucan, K78	4	2,231
		27	7,960

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

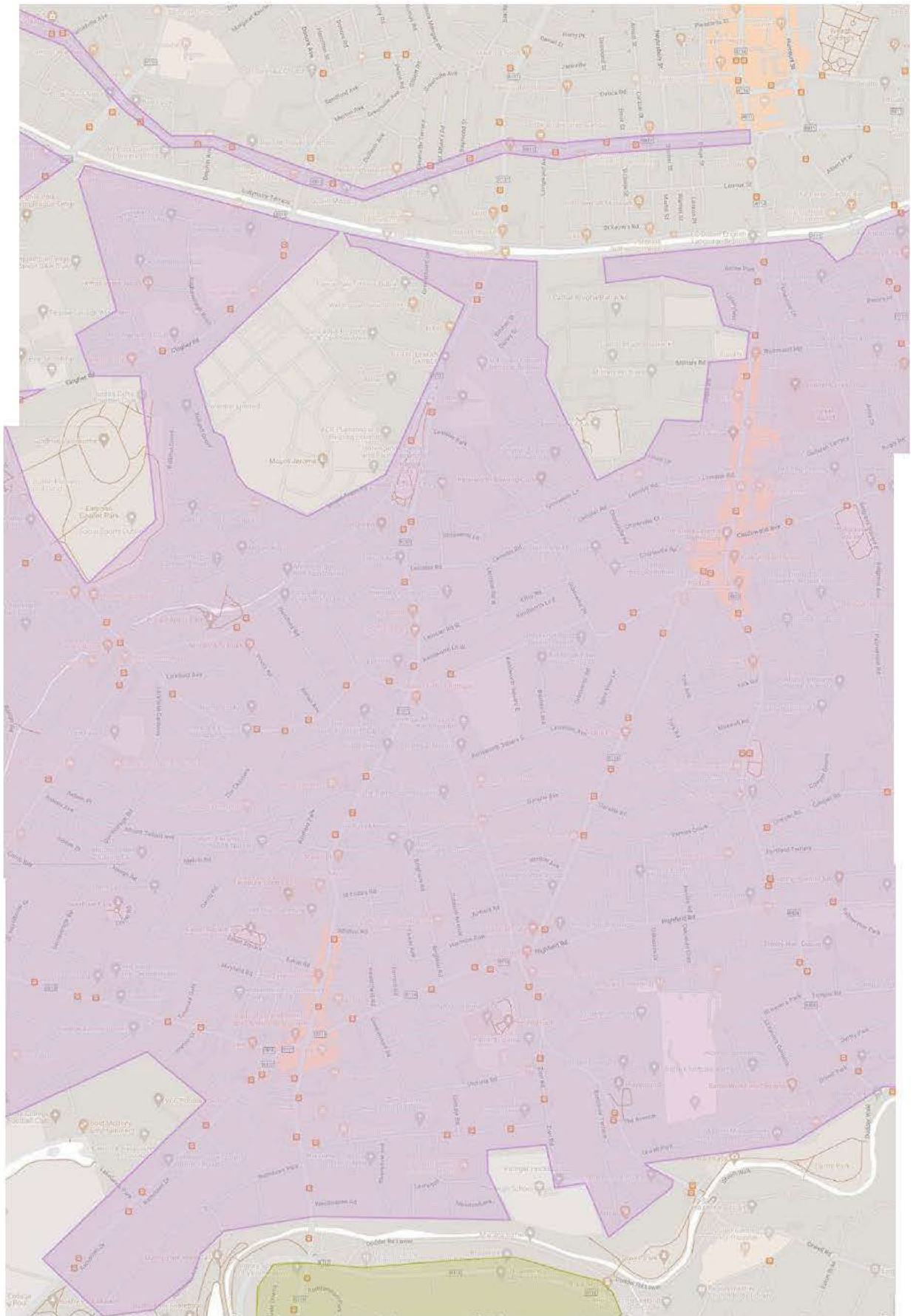
Bin Co at the date of the Determination;

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.

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

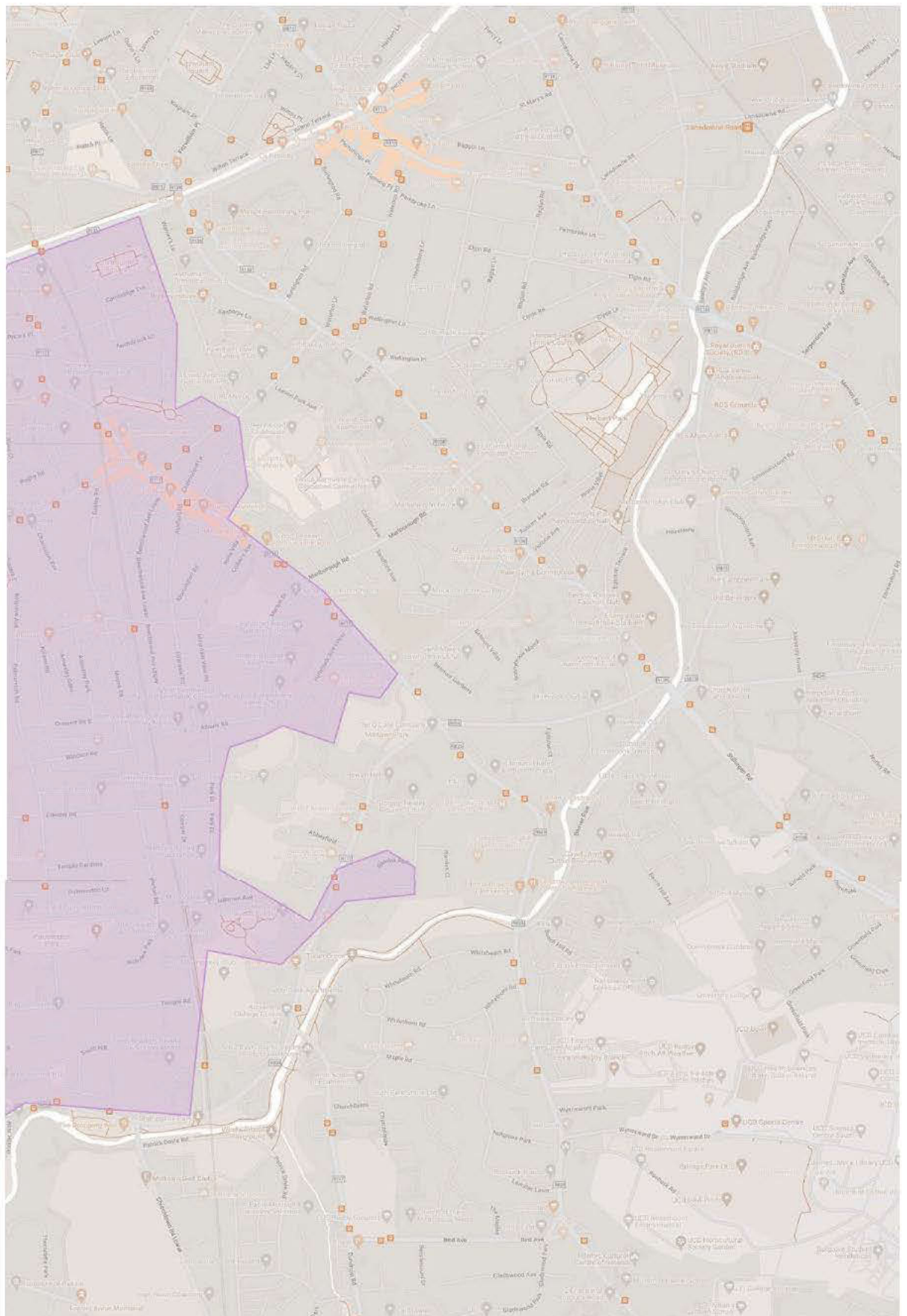


Overlapping Areas in Dublin 6, 6W, 8 and 12 (Central)

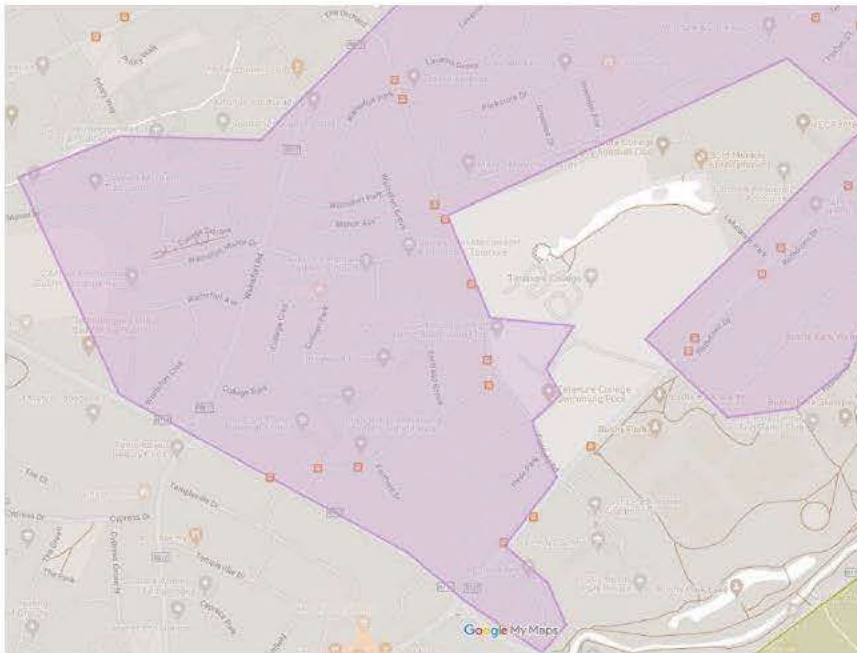


M/22/D67 – Thorntons Recycling/Carducci Holdings (The City Bin Co)

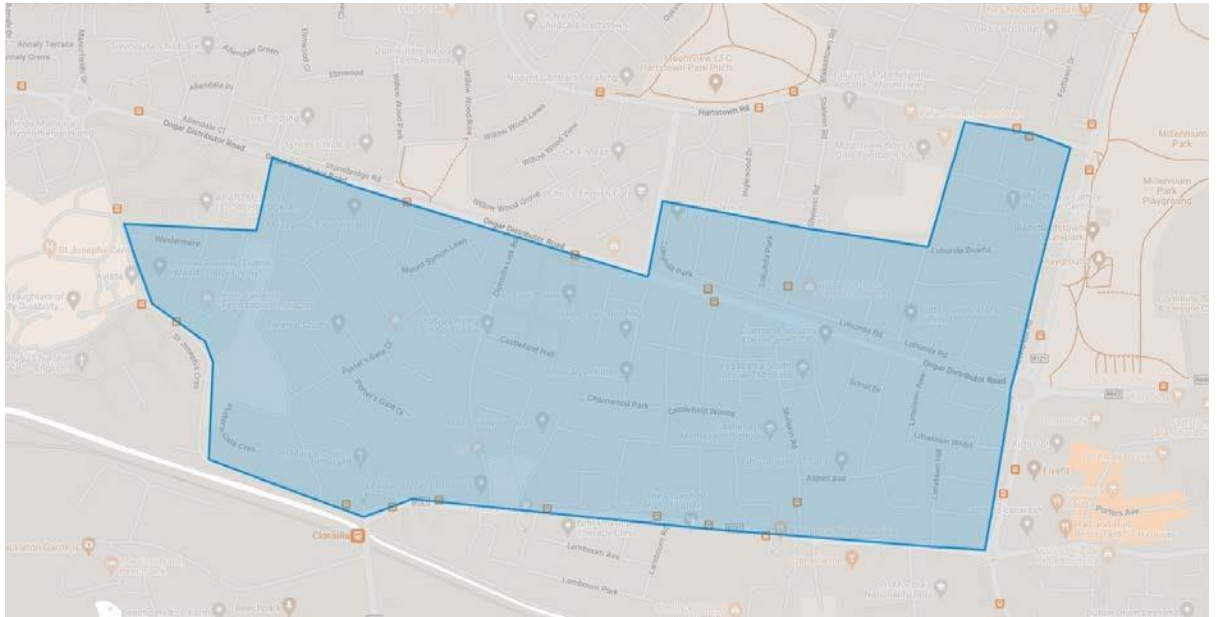
Overlapping Areas in Dublin 6, 6W, 8 and 12 (East)



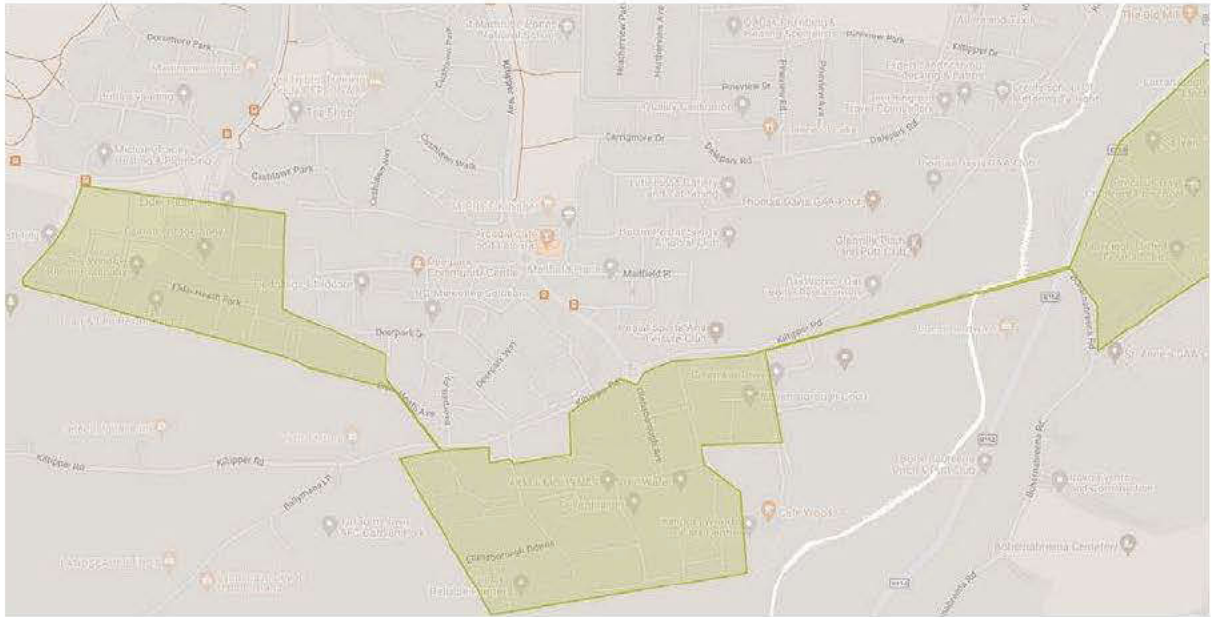
Overlapping Areas in Dublin 6, 6W, 8 and 12 (Southwest)



Overlapping Area in Dublin 15



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



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

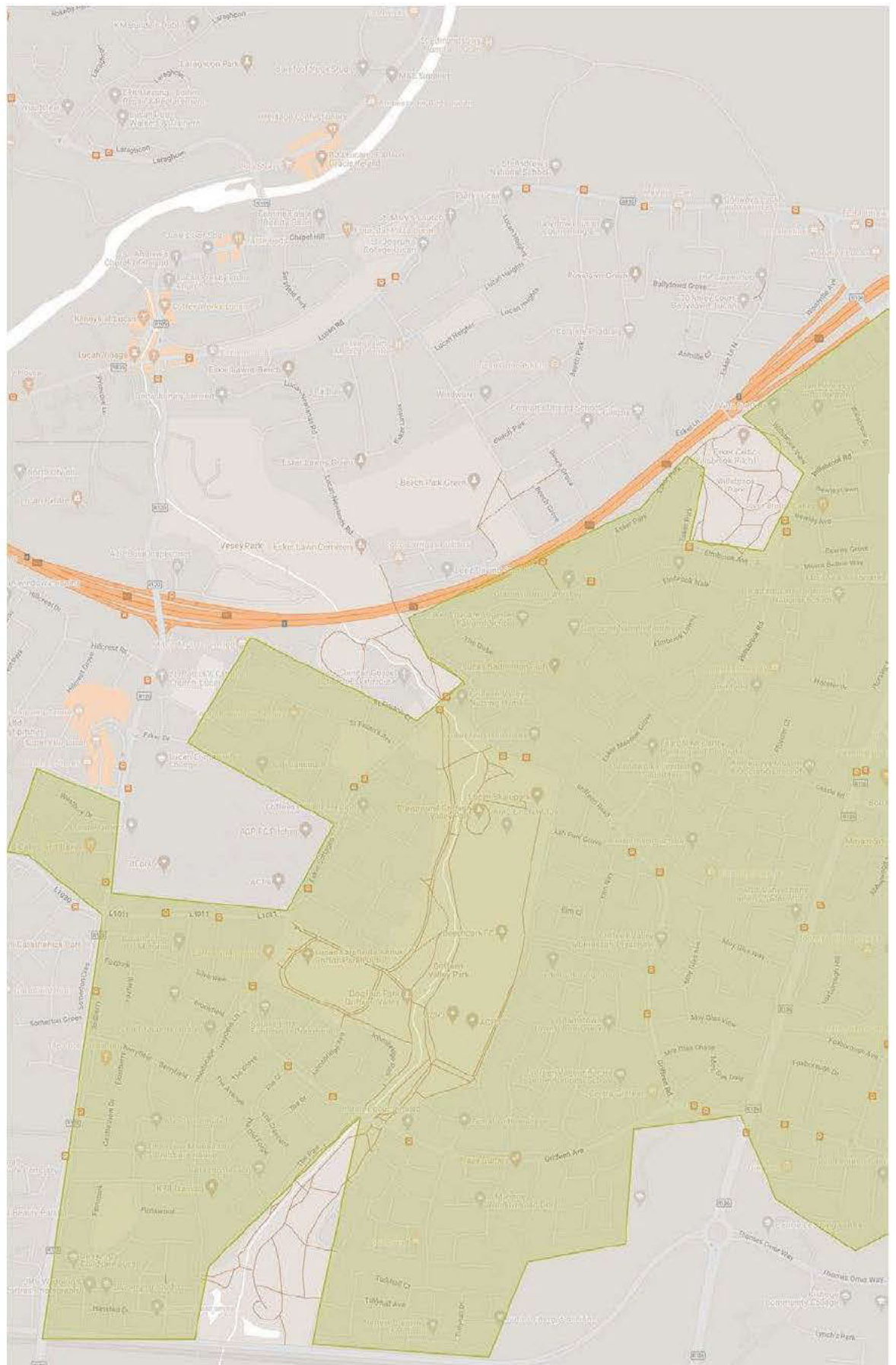


Overlapping Areas in Dublin 14, 16 and 24 (Central)

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



Overlapping Area in K78 (West)



M/22/D67 – Thorntons Recycling/Carducci Holdings (The City 8in Co)



Signed for and on behalf of

Thorntons Recycling

By its duly authorised representative

By:



Name:

Garry BRADY

Title:

CEO



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

