



ANGAS SECURITIES LIMITED ABN 50 091 942 728
AUSTRALIAN FINANCIAL SERVICES LICENCE NO. 232 479

6 February 2017

MARKET UPDATE AS TO PROGRESS OF DEBENTURE RUN-OFF

Angas Securities has continued the asset realisation process since the meeting of debenture holders that was held in Perth and Adelaide in August 2016. Work undertaken by Angas during 2016 will make asset realisations more fruitful as the debenture Run-Off continues this year. The market disclosure in this update has been included to out-line the work undertaken by Angas management in pursuit of funds for future debenture redemptions under the Run-Off.

Angas recently provided disclosure after finalising realisation of the substantial interest in Hindmarsh Precinct Developments Pty Ltd ("HPD"). Angas had contracted to sell its investment in HPD at a price greater than book value. The settlement of the sale transaction was delayed because The Trust Company of Australia ("TrustCo") refused to release the security it held over the Angas investment in HPD. Last year, Angas was forced to initiate legal proceedings in the Supreme Court of South Australia seeking an order directing TrustCo to release the asset so the proceeds of the HPD sale would be available to be paid to debenture holders.

Agreement was reached between Angas and TrustCo for release of the security to resolve the legal proceedings. The final tranche of the HPD sale funds was paid shortly before Christmas and the full proceeds have been paid to debenture investors. In this instance Angas was able to reverse a provision of \$231,008 less legal fees.

There is a sample of specific transactions and their current status. There is a case study which details individual challenges Angas is facing to recoup investor funds, an update on the dispute over legal fees incurred by the trustee, TrustCo and two paragraphs taken from a legal judgment which enabled Angas to free up funds for distribution to debenture holders. Finally, there is an update on the status of the separate funds managed by Angas that continue to meet operating costs for Angas as it pursues the Run-Off.

Loan Realisation Case Studies

A case study will illustrate some of the challenges Angas has faced during the Run-Off whilst demonstrating the value that Angas has been able to add to the process. Borrower identification and property locations remain confidential.

A borrower had two loans with Angas. One loan was secured by a first mortgage over the entire upper floor of an inner city two storey building. The site was vacant but intended for development by the borrower as a gymnasium. The loan fell into arrears after the borrower failed to complete the redevelopment. Angas offered the property for sale on the open market soon after the Run-Off commenced. By November 2015, it became apparent that all purchase offers would fall short of clearing the loan. The sales agent advised Angas to complete the fit out and lease the property as a gymnasium so that it could be sold with a tenancy in place. This

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was done and the property was under contract by May 2016 at a price sufficient to clear the loan.

However, issues emerged with the strata corporation and the local council concerning development works undertaken by the borrower without prior approval. Proceedings were even commenced against the borrower in the State Administrative Tribunal. A resolution was eventually negotiated after attendance by Angas management at three meetings of the strata corporation. In addition, Angas had to pay the costs of works in order to meet Council approval. The sale was due to settle in late October 2016 which would have permitted a distribution to debenture investors at that time but the purchaser's bank was not ready and settlement did not occur until 2 November 2016.

The borrower's other property is a parcel of vacant land with development approval for a neighbourhood shopping centre. This property was listed for sale by Angas soon after the Run-Off commenced. In late October 2015, Angas received an offer for the site of \$5.7M subject to finance. This amount was sufficient to discharge the loan but not accrued interest. Angas consulted the Loans Realisation Committee on 21 October 2015. Following that consultation, Angas made a counter offer of \$6.0M which was not accepted and the contract negotiations stalled.

The property remains on the market. A national supermarket chain expressed interest in leasing the site once the shopping centre had been constructed by a new owner. A contract of sale was quickly executed to a property investor which had this chain as a tenant in two of its existing shopping centres. The price was \$5.7M. That is, in line with the offer rejected about a year earlier. Unfortunately, the new State Manager of the supermarket chain did not wish to proceed with the leasing proposal so that contract has not settled. However, the contracted party remains interested in purchasing the site at the contract price and is actively seeking an alternative tenant. So too is Angas.

Other Avenues of Recovery

Wayville Apartments – Claim Upon Savills

Angas suffered significant losses as a consequence of advancing loan funds for the completion of a 41 unit apartment development at Rose Terrace, Wayville, SA in reliance upon a series of valuation reports provided to Angas by Savills (SA) Pty Ltd ("Savills"). Angas asserts that, but for the negligence of Savills in determining the on-completion value of the apartments, then Angas would not have financed the project. A ground floor one bedroom apartment valued at \$400,000 on completion sold for \$315,000. Another valued at \$370,000 sold for \$300,000. An upper floor three bedroom apartment valued at \$625,000 on completion sold for \$425,000 and a top floor three bedroom apartment with study which was valued at \$1,075,000 sold last month for \$583,000. Last month, Angas settled the final sale of Wayville apartments. In two years since taking possession from the borrower, Angas has sold 26 apartments at Wayville for \$12,598,000.

Angas has commenced legal proceedings in the Federal Court against Savills alleging that Savills is in breach of its retainer and duty owed to Angas, acted in a misleading and deceptive manner resulting in loss and damage; namely the difference between the principal advanced by Angas together with enforcement costs and the values ascribed by Savills. The sum that Angas seeks is in the vicinity of \$8M to \$10M. The first directions hearing is listed before Justice White on 9

February 2017. The professional indemnity insurer of Savills has appointed lawyers to defend the claim.

The OC at Exit 35 – Claim Upon Vero Insurance

Angas appointed Receivers to a property at 124 Distillery Road, Eagleby, Queensland. The property is known as The OC at Exit 35 and is located adjacent to the Pacific Motorway midway between Brisbane and the Gold Coast. The borrower commenced – but failed to complete – a retail outlet centre. The property was sold by Angas for \$12.5M plus GST during the early stages of the Run-Off. This cleared the principal debt but not all accrued fees and interest. The sale price was above book value but in line with valuations that Angas held. Significantly, Angas held three contracts of sale at or about the eventual contract price before the fourth contract settled in 2015. Angas held its nerve and recovered well for investors.

The Receivers had taken out an “Industrial Special Risks Insurance Policy” with a company called Vero Insurance upon their appointment. The property was subject to vandalism between July 2011 and April 2013. The Receivers made a claim on the policy for loss of \$6,212,401 for damage to the walls, cladding, roof and metal sheeting, doors, external and internal surfaces, internal concrete masonry, air conditioning systems, electrical switchboards and two escalators which had not been installed. Vero rejected the claim.

Angas obtained a Special Purpose Loss Assessment which took into account the respective positions of the Receivers and Vero. The report recommended that Vero maintain a reserve of \$2.8M and that Vero settle the Receiver’s claim in the amount of \$2,757,025 (assessed at 2014 prices). Vero rejected the recommendation so Angas has funded the Receivers to commence proceedings in the Federal Court against Vero. The Executive Chairman of Angas travelled to Brisbane on 10 October 2016 to accompany the Receiver, his solicitor and Senior Counsel for mediation with Vero. Negotiations were inconclusive and the mediation was stood over for four weeks. Angas and the Receiver’s legal team addressed a myriad of issues raised by Vero’s lawyers in the interim but Vero simply pulled out of the process. The matter will proceed to trial this year. There is to be a directions hearing before Justice Greenwood on 20 February 2017.

Fernhill Precinct Bio Credits

Angas has actively pursued its initiative to create Bio Credits over Fernhill Central and adjacent precincts at Mulgoa, NSW. Bio Credits are able to be issued in accordance with the NSW Biodiversity Banking and offset scheme administered by the Office of Environment and Heritage (“OEH”). Landowners commit to protecting and enhancing biodiversity pursuant to a formal BioBanking Agreement. The landowner can sell the Bio Credits to third parties (developers who require these biodiversity offsets in order to undertake developments elsewhere). A portion of the Bio Credit sale proceeds are used to establish a fund to maintain the land in perpetuity in accordance with OEH’s requirements.

Angas has sold Bio Credits from Bio Agreements 112 (“BA 112”) and 117 (“BA 117”) for \$13,099,900 since the commencement of the Run-Off with proceeds applied to debt reduction, property management and subdivision costs. It is now necessary to vary BA 112 into smaller sub-agreements to enable sales of smaller lots to settle. This process was impeded by the caveat lodged on all Fernhill precincts (referred to below) but that has now been removed. Angas understands that OEH is close to finalising the BA 112 Variation and then it will need to be registered. The land sales

are separate from the Bio Credits which Angas will retain. Based on recent comparable sales, \$9,048,000 worth of BA 112 and 117 Bio Credits still remain for sale by Angas.

There is a precinct to the west of Fernhill Central with its own land title. It is now the subject of Bio Agreement 190 ("BA 190") issued by OEH on 20 December 2016 following a process that Angas commenced in mid 2015. Much of BA 190 covers a parcel of land known as Western Lot 31 which has been sold but not settled. Angas needs to retain these Bio Credits once title to the land has transferred to the purchaser. At current market rates, these BA 190 Bio Credits are estimated to be worth \$3,620,000. Also, the Bio Banking Scheme includes a "species credit market" which Angas believes it may extract out of the corpus of BA 190 which extends over land that has historically not been subject to the same level of agricultural clearing. Further work is required to create these species credits. Angas is still awaiting a report from its environmental analyst. Even though the establishment and sale of Bio Banking Credits has taken additional time, it is case in point of how Angas is ensuring that maximum value is obtained for each asset as they are realised as a part of the debenture Run-Off.

Legal Costs Claimed by TrustCo

On 16 December 2014, TrustCo commenced confidential proceedings ("2014 proceeding") seeking orders freezing the debenture fund together with judicial advice and directions. On 24 December 2014, Justice Yates of the Federal Court refused TrustCo's request to freeze the debenture fund but made orders, amongst other things, that the costs of the 2014 proceeding be reserved. The 2014 proceeding was subsequently re-listed before the Federal Court on a number of occasions for further directions, including on 3, 13 and 17 February and 8 May 2015. The 2014 proceeding is currently adjourned.

On 29 April 2015, TrustCo commenced a separate 2015 proceeding seeking further directions and judicial advice. Settlement was reached between Angas and TrustCo on 9 June 2015. Justice Beach of the Federal Court ordered by consent that subject to the approval of the Court of the Run-Off following a meeting of debenture holders, that Angas pay TrustCo within 7 days of that approval the following amounts:-

- (a) \$1,505,841.49, for TrustCo's legal costs, including GST and disbursements; and
- (b) \$454,883.18 for PPD Advisory's unpaid costs (PPB Advisory was an advisor to TrustCo which had already been paid \$100,000 plus GST by Angas for a report requested by TrustCo in November 2014 prior to the commencement of the 2014 proceeding).

A dispute remains unresolved between TrustCo and Angas in respect of the 2015 Costs Order, including whether it extended to TrustCo's costs of the 2014 proceedings mentioned above. Angas asked the court to rule that the 2015 Costs Order be varied such that the TrustCo's costs be substantiated and broken down and the costs of the 2014 proceeding be excluded from payment under the 2015 Costs Order.

On 19 October 2016, the Federal Court made an order that the 2015 Costs Order be reduced by the amount of TrustCo's legal costs and expenses incurred by the 2014 proceeding. Justice Beach ruled that he had the power to modify the 2015 Costs Order by reason of his supervisory control of TrustCo and its activities as a debenture trustee. His supervisory control under the Corporations Act was to ensure

that the best interests of debenture holders are pursued by both Angas and TrustCo. His Honour said in the judgment: "I am entitled to consider the best interests of debenture holders (as too should the Trustee) in determining whether and if so how I should vary any interlocutory order, particularly one dealing with costs that will have a financial impact on debenture holders".

TrustCo has sought leave to appeal against this ruling. Its application has been set down to be heard on 18 April 2017 by Justice Jagot of the Federal Court. The 2015 proceeding is otherwise currently adjourned.

Legal Proceedings to Remove Caveats and Encumbrances

One impediment to realising assets is that property titles become encumbered in various ways. It takes time and money for Angas to clear these titles, even if the encumbrance was lodged without proper foundation. A case in point is a caveat lodged over the entire Fernhill precinct by defaulting borrower Warren Anderson. Not only did this prevent Angas from dealing with the land titles, but OEH would not deal with the Bio Credits until the caveat was removed. Angas obtained an order from the NSW Supreme Court and the caveat was removed. Justice Darke observed in his judgment as follows:-

"It is relevant to note, in considering the strength of the caveators' claims, that despite the fact that aspects of the receivership have previously been the subject of litigation in which either or both of Owston and Mr Anderson were parties, there has not previously been any dispute that Owston was significantly in debt to Angas. It was not contended in such litigation that there was no debt owing at the time the receivers were appointed. It was not contended in such litigation that no power of sale had arisen. The earlier litigation includes proceedings in 2012 in which Mr Anderson unsuccessfully sought to restrain Angas from exercising its power of sale over the property.

I note that the caveators also suggest that the sale process being undertaken by Angas amounts to a "fire sale". I am unable to accept that suggestion, which in my view is not made out on the evidence of Mr Anderson to which I was referred in this regard. On the contrary, the weight of evidence suggests that Angas has made considerable efforts over many years to sub-divide and proceed to sell the property. The evidence shows that Angas has undertaken significant work in relation to the sub-division, marketing and sale of the property over a number of years. Preventing completion of the sale contracts will of course have a detrimental impact upon the purchasers under those contracts".

Angas Commercial Property Trust ("ACPT")

Under the terms of the Debenture Fund Deed, as disclosed in the Prospectus, Angas had the ability to invest up to 10% of debenture funds into real property investment. ACPT was set up to allow Angas to invest in commercial real estate with a view to earning a return by way of capital gain and rental yield. At the time of the commencement of the Run-Off, the ACPT portfolio included three income producing properties situated at Acacia Ridge QLD, Morningside QLD and Winnellie NT. Bank debt was used by ACPT to assist in acquiring these three properties. The share of the investment by Angas in ACPT is available to debenture holders. Retiring the bank debt used to purchase these three assets takes priority over the debenture fund

investment in ACPT. Once bank debt has been retired, excess sale proceeds will be available to fund the Run-Off.

Two of the three bank funded assets have been sold. The Acacia Ridge sale was straight forward as the purchaser did not require the security held by TrustCo over ACPT to be discharged. Full proceeds were paid to the bank. Sale of the Winnellie property was due to settle on 5th December 2016 but was delayed because the purchaser did require discharge of the security held by TrustCo to be released. Following negotiations with TrustCo, settlement finally took place on 30th January 2017. Most of the sale proceeds were retained by the bank but the sum of \$346,176.00 was released to Angas at settlement and paid to debenture investors the next day pursuant to the Run-Off.

**Angas Prime Income Fund (“APIF”), Angas Contributory Mortgage Fund
 (“ACMF”) and Angas Financial Services (“AFS”)**

Angas continues to manage APIF and ACMF as going concern operations. Revenue from these businesses fund Angas by generating fee income as fund manager. Financial performance to the December half year has been in line with expectations. Investor loyalty in both funds has been maintained and rewarded. As stated in the Explanatory Memorandum, Angas proposed that a wholly owned subsidiary (subject to the Trustee’s charge) was to be established to enable APIF and ACMF to be sold off for the benefit of debenture investors (if necessary).

Steps towards that structure are being taken. A new subsidiary has been formed and ASIC is assessing its application for an Australian Financial Services Licence to enable the subsidiary to replace Angas as Responsible Entity and to manage the two funds. The Trustee is engaging in this process. Angas has responded to the Trustee’s requisitions. Meanwhile, in November, AFS recorded its best trading month for several years as a home loan business introducer. AFS management report a solid pipeline of loan applications and enquiries. AFS can be sold off as part of the Run-Off (if required). AFS income flows as revenue to Angas. Its sale price will be enhanced by strong ongoing performance.



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