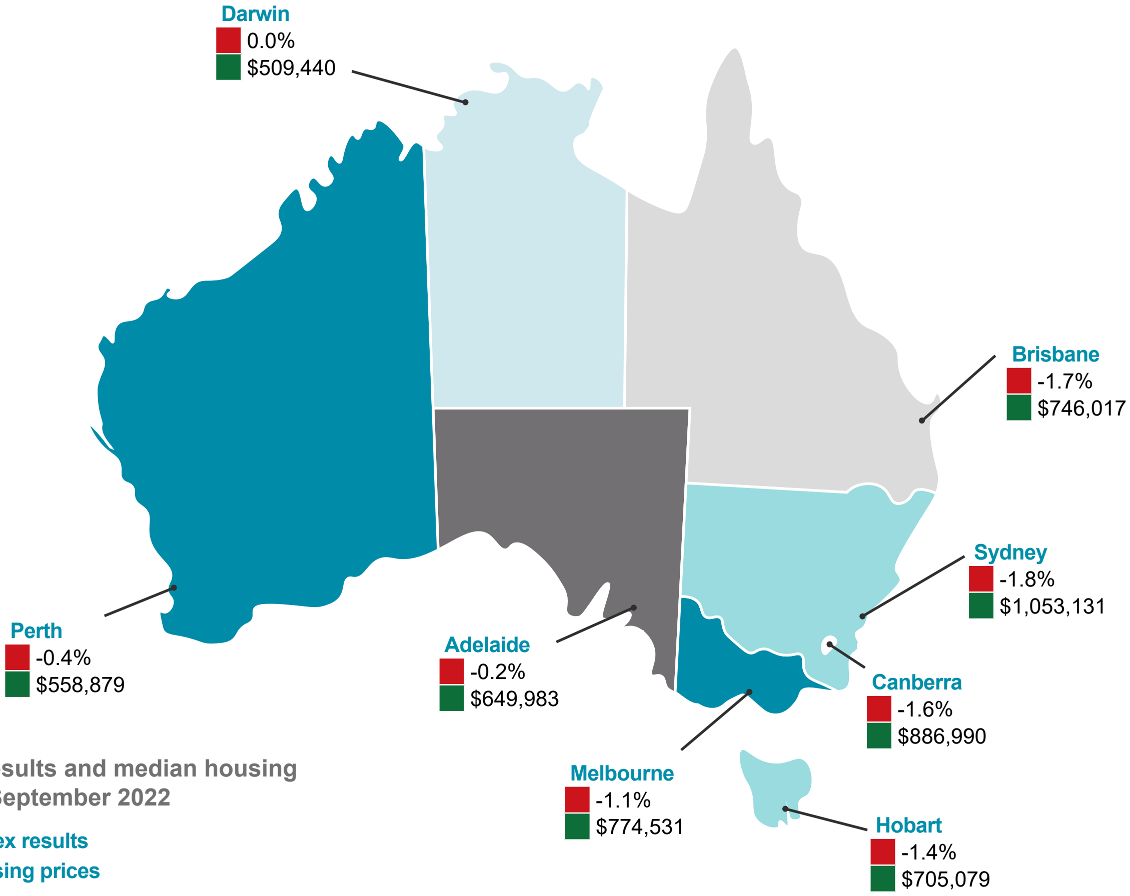
What goes up, must come down – Declining property values, rising interest rates, mortgage distress and assisting through financial difficulty

Market trends

In August 2022, the national Home Value Index (**HVI**) recorded the largest month-on-month decline in Australian housing values since 1983. These images represent the September 2022 change in HVI values nationwide, being the fifth consecutive month of decline, together with median housing values. The first month of spring recorded a national -1.4% decline in HVI.



Monthly index results and median housing values as at 30 September 2022

Monthly index results
Median housing prices

Source: Corelogic

Growing distress

Property prices remain linked with interest rates. As interest rates increase, the maximum loan amount that can be borrowed by consumers decreases while the cost of servicing the loan increases. Property prices can be negatively influenced by such financing limitations. As mortgage and other costs rise, consumer budgets are being tightened. It has been predicted that mortgage distress rates will increase into 2023, particularly as a large portion of fixed rate loans expire.

There are many options for Lenders to assist their customers who are experiencing financial difficulty, prior to seeking to enforce any mortgage default. Financial difficulty means a customer is unable to repay what they owe and is experiencing difficulty meeting repayment obligations, which can be as a result of an unexpected event or unforeseen changes outside the customer's control (*Banking Code of Practice 2019*, paragraph 157), such as illness or injury, becoming unemployed or being affected by a natural disaster.

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Lenders to be customer centric to try and minimise or avoid litigation

The Australian Banking Association has published a number of industry guidelines based on the Banking Code and *National Consumer Credit Protection Act 2009* (Cth), including providing a framework for Banks' financial difficulty programs (see Financial difficulty industry guideline and Financial difficulty fact sheet).

These guidelines promote best practice across the banking industry and Lenders are encouraged to use these principles in their internal processes, procedures and policies.

Talk with your customer as early as you can. The earlier you do, the more options may be available to assist the customer. Keep talking to your customer as circumstances can change. A Lender can help customers with joint debt, even without involving the other person initially.

Communicate in a timely and clear manner and make information about your processes for assisting customers in financial difficulty publicly available, accessible through a variety of methods and inclusive. Where appropriate, advise customers of free alternatives such as any internal dispute resolution schemes and the National Debt Helpline.

Use a variety of practices that can identify signs of financial difficulty, have regular training programs in place for staff including specialised teams which are equipped to treat diverse and vulnerable customers with sensitivity, respect and compassion.

The below table records the percentage change in the cash rate target beside the new target for the cash rate since 4 May 2022, with forecasts of a peak cash rate of around 3.35% in 2023.

Effective date	Change % points	Cash rate target %
5 October 2022	+0.25	2.60
7 September 2022	+0.50	2.35
3 August 2022	+0.50	1.85
6 July 2022	+0.50	1.35
8 June 2022	+0.50	0.85
4 May 2022	+0.25	0.35

Source: RBA

When experiencing vulnerability (e.g. age-related impairment or cognitive impairment, financial abuse, family or domestic violence, or elder abuse, serious illness including mental illness or any other personal, or financial circumstances causing significant detriment such as homelessness) a customer requires extra care.

Depending on the customer's circumstances, a Lender can discuss options including:

- whether interest-only repayments can be made for a short period;
- whether the length of a loan can be extended to reduce repayments;
- whether payments can be postponed or deferred for a short time;
- whether any alternative arrangement, plan or change to the terms of the loan can be implemented;
- whether time can be given to refinance a mortgaged property;
- whether time can be given to allow for a mortgagor sale of their property;
- whether minor individual instances of help can be provided, such as refunds or fee waivers provided at the Lender's discretion for emergency events or natural disasters; or
- relocation assistance should the customer agree to voluntarily surrender their property.

For emergency events or natural disasters, Lenders may consider offering wider relief packages (e.g. food or accommodation services) to provide immediate support for customers, as well as broader support to help communities recover.

It is noted that hardship applications under the National Credit Code, which can be made either verbally or in writing, have prescribed requirements and timeframes which Lenders must follow (see section 72).

Where a customer does not engage with the Lender, the Lender may then review the matter for possible enforcement action.

Gadens can assist Lenders with their internal procedures and policies, dispute resolution and enforcement action needs.

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