

Key differences - body corporate and incorporated society



Body Corporate	Incorporated Society (<i>Society</i>)
Governed by the Unit Titles Act 2010 and Regulations 2011	Governed by the Incorporated Societies Act 1908 and the Constitution prepared for the Society
Unit Titles Act 2010 and Regulations 2011 can only be amended by Government	Constitutions can be amended by Owners
Insuring all buildings and infrastructure is mandatory	Building insurance is often individual Owner responsibility, however, can be included as a Society obligation if dictated in the Constitution
Levies are raised based on UI / OI according to UTA	Levies are generally split equally by all units however some exceptions are made and will be noted within the Constitution
AGM is required within a specific timeframe (within 15 months of previous one)	No timeframe unless specified in the Constitution.
Body Corporates have the power to enter a private unit for repairs and maintenance purposes	A Society would not have authority to enter into a private unit unless specified in the Constitution. (we recommend that this be confirmed by a lawyer)
Long Term Maintenance Plan is mandatory	No Long Term Maintenance Plan required
Health & Safety Plan/Hazard Register is mandatory under the Health & Safety at Work Act	No Health & Safety Plan/Hazard Register required
Large focus on the maintenance of all building elements and common property	Obligations are only as described within the Constitution. For example, some Societies are only responsible for maintaining a driveway
Financial Accounts approved at Annual General Meetings must be audited unless the Body Corporate agrees not to by Special Resolution (requiring 75% in favour)	Financial Accounts approved at Annual General Meetings must be lodged with the Companies Office
Pre Contract Disclosure Statements and Pre Settlement Disclosure Statements are mandatory for a vendor to provide to purchasers when selling a unit	Most Societies require the vendor to have the purchaser complete a Deed of Covenant and forward it to the Society
Unable to dissolve a Body Corporate	Able to dissolve an Incorporated Society

SIMILARITIES

- Operates for the benefit of all Owners and Residents / the Community
- Annual General Meetings are held, budgets are prepared and approved, levies are raised, and financial accounts are maintained
- Outside of a General Meeting, decisions are made by an elected Committee made up of Owners who are delegated the powers of the entity to act on behalf of all Owners.
- Rules/Constitutions can only be amended at a General Meeting.

MANAGEMENT | BTR | BODY CORP

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