

South Australia's Environment Protection Authority

# SUBJECTIVE ASSESSMENT

THURSDAY 25 MAY 2017  
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# Subjectivity

- Based on or influenced by personal feelings, tastes or opinions



# What the LNLC Act tells us

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## Regulation 4(b) we can consider

- Sensitivity of affected premises
- Land use of source and affected premises
- Was it avoidable
- Outside business hours to accommodate vehicle and pedestrian traffic
- Were all reasonable measures taken to prevent
- Development Act authorisation being complied with

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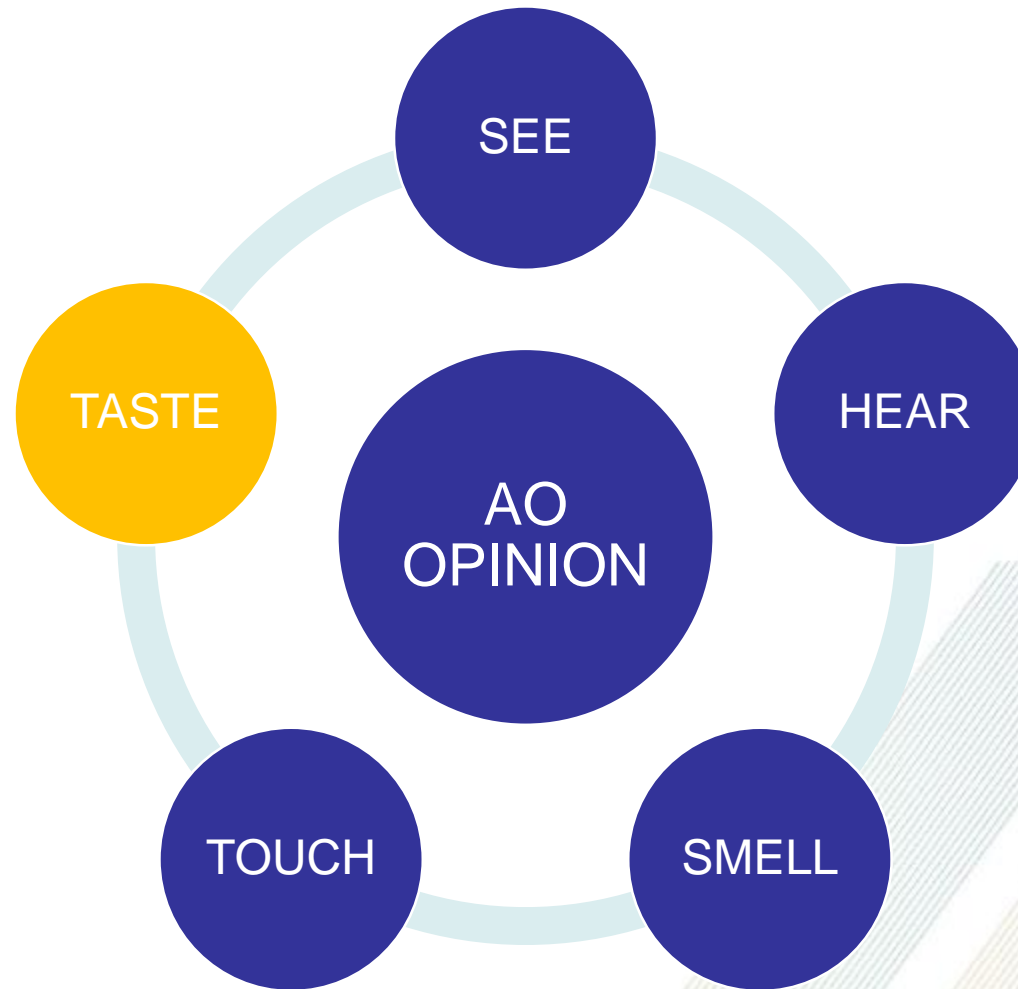
## Regulation 7

- For purposes of 21(d) testing, standards, techniques (including sensory)
- Officer can use own senses to form opinion

## Section 50

- Court may accept AO opinion in the absence of proof to the contrary (reversal of onus onto accused)

# Subjective Opinion



# Opinion on what

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- The nuisance per Section 17 and Schedule 1
  1. Travelled from source to receiver
  2. The level, nature and extent of nuisance constituted an unreasonable interference with enjoyment

# How

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- Place ourselves in the situation at the times it is occurring
- Replicate the complainants activity where possible
- What is the background sound/smell/dust etc
- What are the annoying characteristics
- What are other people experiencing

# How

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- Once we have assessed the nuisance ask ourselves

Would a reasonable person tolerate the nuisance given the level, nature and extent?

- If the answer is no, then a local nuisance exists.