

## Application Details

Licence No.	57617701
Licence Class	Liquor Production & Sales
Application no.	200743
Premises Name	Flehan
Premises Address	2 Green Pine Circuit Golden Grove SA 5125
Applicant	Flehan Pty Ltd
Application Type	Application for a Liquor Licence

## Outcome

Decision	Refused
Effective Date	21 May 2020

## Requirements

The following requirements in support of the application have been satisfied:

- Landlord's consent has been obtained
- The application has been advertised
- All approvals, consents or exemptions have been obtained

## People

### Not Approved

The following person's application for approval is refused:

- Danil Flehan (107728)

The person is not a fit and proper person as they have been found guilty or convicted of a prescribed offence.

## Determination Details

An intervention was lodged by the Commissioner of Police regarding the approval of Danil Flehan .  
The intervention was lodged on the basis that the applicant has been convicted of a prescribed offence.

Under section 81(1)(a) I determine this matter without holding a hearing.

## Reasons for Decision

Information provided by the Commissioner of Police shows that the applicant was convicted of a prescribed offences, namely 'Aggravated assault causing harm' on 20 May 2010, under section 20(4) of the *Criminal Law Consolidation Act 1935* (the CLCA) and 'Aggravated assault' against a second victim, also on the 20 May 2010 under section 20(3) of the CLCA. Both of these offences relate to the same incident in December 2007.

These offences are indicatable offences, in accordance with section 5 of the *Criminal Procedures Act 1921*. I am also satisfied that the offences involve violence. The ordinary meaning of violence is behaviour involving physical force intended to hurt, damage, or kill someone or something.

In sentencing Mr Flehan for this offence, Judge Rice made the following statement in relation to the first count, 'Aggravated assault causing harm':

"There is no doubt that [omitted] was then given a severe beating as part of a joint enterprise by those that set upon him, probably about four in number, maybe more. Legally, you two are obliged to accept responsibility for all of his injuries. However, I will deal with you on the basis that you, Danil, did not actually assault [omitted]..."

In relation to the second count of 'Aggravated assault' against the second victim, Judge Rice made the following statement:

"He was not an intended victim but became one because he arrived with [omitted]. The offence against him is aggravated by you and others being in company and using an offensive weapon against him. The assault upon him, whilst nowhere near as serious as that upon [omitted], was serious nonetheless."

It is clear from these remarks that the offending involved violence in relation to both counts. Although the judge conceded that Mr Flehan did not actually assault the first victim, he was still convicted of the assault on the victim, an assault which involved considerable violence.

I am satisfied that this offence is an indictable offence involving violence, and therefore is a prescribed offence under 13AA of the *Liquor Licensing (General) Regulations 2012*.

Accordingly Mr Danil Flehan is not a fit and proper person to occupy a position of authority in a trust or corporate entity that holds a licence pursuant to section 55(a2)(a) of the *Liquor Licensing Act 1997*. As Mr Flehan is the sole director of the applicant company the application for a liquor licence must be refused.

## Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes  
Team Leader, Licensing and Registration  
21 May 2020