

# LANDOWNERSHIP SCOTLAND

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Who owns that land?

Lindsays  
Caledonian Exchange  
19A Canning Street  
Edinburgh  
EH3 8HE

Date: 10 October 2019  
Our ref: CJF/S6350  
Your ref: Louise Norris

Dear Sirs,

Scottish Water  
Land at Forres

We refer to your instructions of 16 September 2019 regarding the above subjects.

We have carried out a search in the Land Register and in the Search Sheets for the County of Moray against the area coloured red on your plan at Invererne Road, Forres.

You indicated that it was believed the area in question is in the ownership of Altyre Estates and supplied a copy of a Disposition by Altyre Estates Company and others to William Gordon Cumming recorded 5 April 1967 of the areas shown delineated and coloured red on four deed plans. As you noted the quality of the copies of these plans is somewhat poor, but on close inspection we do not believe the area in question is included within any of the areas shown on these plans.

The area in question comprises part of the sola of Invererne Road and Waterford Road, part of the alveus of the Mosset Burn and a narrow verge area lying between the road and the burn. We enclose a screenprint from the National Library of Scotland website of part of an Ordnance Survey map published in 1905 on which we have outlined the area in question red and which we will hereafter refer to as "our plan". This shows that the area in question at that time also comprised the sola of these roads and alveus of the burn. Earlier maps also show the roads and burn following this same course and where roads have been in existence for a long time it is often the case that the solum remains in the ownership of a common underlying Estate title from which more recent titles for ground in the vicinity derive.

To try to work out the underlying Estate title picture in the vicinity of the area in question we looked at surrounding titles and enclose a copy of an Order and Scheme by the Church of Scotland General Trustees recorded 17 May 1934 which is for the Glebe of the Parish of Forres. The subjects form the area we have tinted green on our plan and there is no indication in the deed of any underlying Estate title from which this ground derives or was granted.

The 1934 deed plan shows the ground to the west as belonging to the Burgh of Forres. Forres is a Royal Burgh which is a type of Burgh created by Royal Charter which granted, among other privileges, the lands of the Burgh to the relevant local authorities of the time. The original Charter creating the Royal Burgh of Forres is believed to have been granted around 1140 by King David I. This area, shown on the 1934 deed plan and which we have tinted pink on our plan, seems to have remained in the subjects in the residue of the Forres Burgh Charter as recently as 1934 and may still do so.



We enclose a copy of a Feu Charter by Alexander Edward to Trustees of Benromach Distillery Company recorded 24 December 1898 of 7 acres 3 roods 35 perches of ground which, from the bounding description and subsequent sales, form the area we have outlined in blue and labelled "1898 title" on our plan. The subjects in this 1898 title are described as forming part of the Estate of Sanquhar.

We enclose a copy of a Disposition by RHM Agriculture (Caledonia) Limited to Moray District Council recorded 20 August 1975 of 1.852 acres which include ground lying adjacent and to the southwest of the area in question at the junction of Invererne Road and Waterford Road being the area we have outlined in blue and labelled "1975 title" on our plan. The search sheets indicate the subjects in this 1975 title form the remainder of a park or piece of land consisting of 1 acre 3 roods 14 perches, forming the subjects in a Feu Charter by Alexander Grant to Robert MacKessack recorded 8 January 1862, a copy of which is enclosed. There is no indication given in the deed of an underlying Estate from which this ground derives or was granted from.

The title plan for MOR16310 shows an area tinted blue, which Burden 2 on the title sheet indicates forms the subjects in a Disposition by British Railways Board to Provost, Magistrates and Councillors of the Royal Burgh of Forres recorded 18 Dec 1972. This ground forms the area we have outlined in blue and labelled "1972 title" on our plan which lies adjacent and to the southwest of the area in question. The search sheets indicate the ground in this 1972 title forms part of underlying railway titles recorded in 1859 and 1860 comprising part of the lands and Estate of Burdsyards and part of the Town and lands of Bogtown respectively. We looked at the abridgements for these sales of ground for the railway and in the sale forming part of the Town and lands of Bogtown the granter was Alexander Grant, which must be the same Alexander Grant who was the granter in the aforementioned 1862 title. The granter for the sale from the lands and Estate of Burdsyards was Charles Edward Fraser Tytler.

We enclose a copy of an Instrument of Sasine by Charles Edward Fraser Tytler recorded 4 February 1858 which is for subjects known as the lands and Estate of Burdsyards comprising inter alia the Town and Lands of Sanquhar. The subjects in this 1858 title seem to have been later generally known as the lands and Estate of Sanquhar and were subsequently included in the First Place in a Disposition by Trustees of Alexander Edward to Altyre Estates Company recorded 5 December 1959, a copy of which is enclosed.

We enclose a copy, together with three Duplicate Plans, of a Disposition by Altyre Estates Company and others to William Gordon Cumming recorded 5 April 1967. We note this deed is recorded on the same day and between the same parties as the aforementioned 1967 title that you supplied the deed for. The subjects in the Second Place in this title are described as including inter alia those in the First Place in the 1959 title, and are shown delineated in green on deed plan 3. These areas appear to include all the ground we have tinted blue on our plan. The area in question is not included in the areas shown on this plan.

We have reached your expenditure limit for this search without being able to find a conclusive answer as to the ownership of the area in question. The title picture does not appear to be straightforward with regards the boundaries of underlying Estate titles. The Estate which would seem to be the most likely to include the area in question is the lands and Estate of Sanquhar, now owned by the Trustees of William Gordon Cumming, as this seems to include the ground lying adjacent and to the west. However, the plan for these subjects in the 1967 title does not include either the solum of the road or the alveus of the burn that form the area in question. It is also not clear how the historical ownership of Alexander Grant, as referred to in prior titles for the areas labelled 1975 title and 1972 title on our plan, fits in to the picture.

The ground to the east of the Mosset Burn, tinted pink on our plan seems to form part of the subjects in the residue of the Forres Burgh Charter and as we have not been able to find any title which expressly includes the area in question we therefore cannot rule out that it could also form part of the subjects in the Burgh Charter and remain in the residue thereof, which would now be owned by Moray Council.

Other than the residues of the lands and Estate of Sanquhar and the Forres Burgh Charter we have not identified any other titles which seem capable of including the area in question. We believe it is unlikely any further work we could carry out would lead to a stronger conclusion with regards to the ownership.

We trust this meets your requirements and enclose a note of our fee.

Yours faithfully,



Authorised signatory

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