

POLICY BRIEF · HERITAGE AND BURIAL RIGHTS

The Funeral, Burial and Cremation Services Act and the ALTO Corridor:

An Unassessed Legal Constraint

A systematic analysis of Ontario's burial protection framework as it applies to the proposed ALTO High-Speed Rail southern corridor through Eastern Ontario, with reference to 51 documented cemetery locations in South Frontenac and Rideau Lakes.

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The Regulatory Framework

Ontario's Funeral, Burial and Cremation Services Act, 2002 (FBCSA), which came into force July 1, 2012, replaced and consolidated the former Cemeteries Act. It is administered by the Bereavement Authority of Ontario (BAO). The Act governs four distinct categories of burial land, each carrying different legal protections and procedural obligations.

REGISTERED CEMETERIES

Land formally consented by the Registrar and registered against land title. Section 102 prohibits interfering with a registered cemetery. Closing one requires a formal Registrar's order, the test being whether closure is in the public interest, with full appeal rights to the Licence Appeal Tribunal. The cemetery designation survives ownership change and survives expropriation. A Crown corporation acquiring title to land containing a registered cemetery cannot develop it until a closure certificate is issued and all appeals exhausted.

UNREGISTERED CEMETERIES

Land functioning as a cemetery but not formally registered with the BAO. These carry less procedural protection but remain subject to the Act once human remains are confirmed.

BURIAL SITES

Land containing human remains that is not a cemetery. Section 94 prohibits disturbance. Discovery triggers mandatory investigation and, if parties cannot agree on site disposition, binding arbitration.

WAR GRAVES

The remains and markers of Canadian or Allied veterans or Commonwealth War Burials cannot be moved without the agreement of Veterans Affairs Canada and the Commonwealth War Graves Commission — independent of the FBCSA and of any federal infrastructure legislation.

CRITICAL POINT

Disinterment requires multiple consents: the interment rights holder, the Registrar, and potentially the courts. Where rights holders are deceased — as in all pioneer family plots from the 1790s–1850s — the Registrar's substitute consent process cannot be accelerated by federal legislation or Crown corporation authority.

Why Eastern Ontario Is Specifically Acute

Eastern Ontario was the primary landing zone for United Empire Loyalist settlers from 1784 onward. Every farm family that arrived between 1784 and 1840 buried its dead on the land it cleared, commonly in small private plots on agricultural properties, many never formally registered. The Ontario Historical Society and Ontario Genealogical Society have documented over 1,500 unregistered cemeteries across Ontario; Eastern Ontario counties represent a disproportionate share.

Construction of the Rideau Canal (1826–1832) added a further layer: Irish canal workers who died during construction were buried in unmarked graves along the waterway. The Rideau Lakes dataset examined for this brief records that a building permit was stalled as recently as 1989–1991 at one location in this township due to the presence of canal workers' remains, the same area now under ALTO study.

The Consultation Platform Exchange: A Documented Refusal

On March 3, 2026, the ALTO HSR Citizen Research Initiative submitted coordinate datasets for cemetery locations in Rideau Lakes Township and Frontenac County to ALTO, requesting they be incorporated into the consultation map. The basis for the request: at the Storrington open house, ALTO's own GIS specialist had indicated this was possible if coordinates were provided.

ALTO's formal written response:

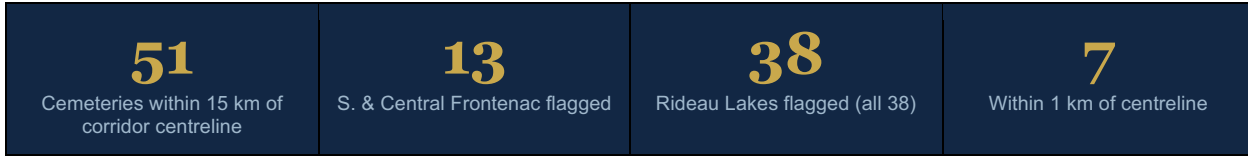
ALTO TEAM RESPONSE — MARCH 2026

"It is not possible to import multiple pins at once on the public map during the public consultation process. If you wish, you may submit each pin individually directly on the platform. Alternatively, you can share the file containing all the locations, you are welcome to upload it as part of a written brief."

This exchange documents three things: (1) a direct contradiction between what ALTO's GIS specialist told a participant in person at Storrington and what the formal process actually allows; (2) the suggestion to enter 38 coordinates individually is a functional exclusion of the data, not a reasonable accommodation; and (3) ALTO has been in possession of the Rideau Lakes cemetery coordinate dataset since March 3, 2026. Whether this data was incorporated into ALTO's planning analysis is unconfirmed. The cemetery locations do not appear on ALTO's public consultation map. This policy brief constitutes the written submission ALTO's response directed us to provide.

Cemetery Proximity Analysis: South Frontenac and Rideau Lakes

The following analysis cross-references cemetery locations from two primary source datasets — the Frontenac County GIS cemetery inventory and Howard E. French's Rideau Lakes Township cemetery catalogue (November 2023) — against the approximate ALTO southern corridor study band. Distances are approximate, from a modelled centreline consistent with ALTO's published study area, and indicate proximity risk rather than confirmed corridor intersection.



FRONTENAC COUNTY — REGISTERED CEMETERIES NEAR CORRIDOR

Source: Frontenac County GIS inventory, 43 locations. 13 within 15 km of approximate corridor centreline.

CEMETERY	TOWNSHIP	APPROX. DISTANCE
Harrowsmith Cemetery	South Frontenac	0.1 km
Sydenham Cemetery	South Frontenac	2.9 km
Opinicon Cemetery	South Frontenac	3.0 km
Wilmer Cemetery	South Frontenac	3.2 km
St. Luke's (Murvale) Cemetery	South Frontenac	5.5 km
St. Patrick's Cemetery	South Frontenac	6.9 km
Verona Cemetery	South Frontenac	7.8 km
Vanluven Cemetery	South Frontenac	10.9 km
Piccadilly Cemetery	Central Frontenac	11.6 km
Latimer Cemetery	South Frontenac	11.8 km
Sandhill Cemetery	South Frontenac	12.3 km
Campsell Cemetery	Central Frontenac	12.5 km
St. Edward's Cemetery	South Frontenac	12.7 km

RIDEAU LAKES TOWNSHIP — ALL 38 DOCUMENTED CEMETERIES NEAR CORRIDOR

Source: Howard E. French, 'Rideau Lakes Cemetery Locations,' November 2023. Locations within 5 km of corridor centreline:

- Chaffey's Locks (Parks Canada) — 0.8 km
- Clear Lake Cemetery — 0.9 km
- Harlem Community Cemetery — 1.2 km
- Forfar Cemetery — 1.7 km
- The Designated Cemetery (Denny Cemetery) — 2.5 km
- Halladay Cemetery — 2.7 km
- Phillippsville Baptist Cemetery — 2.7 km
- Old Lillie's Cemetery — 2.9 km
- Crosby United Church Cemetery — 3.0 km
- St. Peter's Anglican Cemetery — 3.2 km
- Sheldon's Cemetery — 3.4 km
- Emmanuel Burying Ground — 3.5 km
- Holy Japanese Martyrs Cemetery (Phillippsville RC) — 3.6 km
- Portland Anglican Cemetery — 3.7 km
- Knowlton Cemetery — 3.9 km

- Ripley–Sly Cemetery — 4.8 km
- St. Columbanus Cemetery — 5.0 km

Additional documented locations at 5–15 km include Polk Family Cemetery, Newboro United Cemetery, Tett Cemetery, Hutchings, Stevens Cemetery, Denault Cemetery, Plum Hollow Baptist, Morton Cemetery, Briar Hill Cemetery, all five Westport village cemeteries, and four South Elmsley cemeteries.

LOCAL PRECEDENT — RIDEAU LAKES, 1989–1991

The Rideau Lakes dataset records that a building permit application in this township was stalled for two years because deceased canal workers were buried at the site, with concern over disease from disturbed remains. This occurred 35 years ago for a single building permit. ALTO's proposed 60-metre corridor through this same landscape would be orders of magnitude more extensive in its disturbance.

Unregistered Cemeteries and Burial Sites: The Invisible Risk

The datasets above cover only known, documented cemeteries. They do not capture: private family plots marked only with fieldstones; informal burial sites for labourers and itinerant workers; canal workers' graves along the Rideau waterway recorded only as 'unknown'; or Indigenous burial sites predating European settlement. Under the FBCSA, discovery of human remains during construction halts work, triggers mandatory investigation, and potentially triggers binding arbitration, with unpredictable timelines incompatible with ALTO's stated delivery schedule.

The Federal–Provincial Jurisdiction Problem

ALTO is a federal Crown corporation; the FBCSA is provincial legislation. Bill C-15, Part 5, Division 5 would allow federal ministers to exempt persons or corporations from virtually any federal or provincial law. Whether that power could override FBCSA burial protections is untested and unaddressed in ALTO's consultation materials. Even if available, federal paramountcy would not resolve registered cemetery disinterment consent requirements, which cannot be unilaterally expedited.

Formal Requests

Request 1 — Heritage Burial Site Survey Before Route Selection

ALTO should commission and publicly release a systematic heritage burial site survey of the full Eastern Ontario study corridor: registered cemeteries on title; known unregistered cemeteries from OGS/OHS databases; historically probable pioneer family plot locations based on Loyalist-era land grant records; and field verification. This survey must be released before any route is confirmed.

Request 2 — Disclose Registered Cemetery Closure Process

ALTO should publicly disclose whether any registered cemeteries fall within its study corridor, what the FBCSA closure process would entail, and what timeline is anticipated for Registrar's orders and potential appeals.

Request 3 — Clarify Federal–Provincial Legislative Interaction

ALTO should confirm whether it relies on any federal paramountcy argument or Bill C-15 provision to override provincial cemetery protections, and if so, the specific legal basis. Any such claim should be subject to independent legal review before route selection.

Request 4 — Engage Veterans Affairs Canada and the Commonwealth War Graves Commission

ALTO should confirm that Veterans Affairs Canada and the Commonwealth War Graves Commission have been consulted on the Eastern Ontario corridor study area and release documentation of that engagement.

Request 5 — Aboriginal Peoples' Burial Ground Assessment

ALTO should confirm that its burial site survey includes systematic assessment for aboriginal peoples' burial grounds throughout the Eastern Ontario study corridor, subject to site disposition agreements under FBCSA requirements, independent of and prior to the Impact Assessment process.

Request 6 — Accept Structured Heritage Data Through the Consultation Platform

ALTO should accept GPS coordinate datasets for heritage sites in machine-readable form and incorporate them into the consultation map. The current limitation requiring individual manual pin entry resulted in GPS-coordinated burial site data submitted March 3, 2026 not appearing on the consultation map. This brief is the written submission ALTO's response directed us to provide.

Conclusion

The FBCSA creates a category of legal constraint on the ALTO corridor that has received no public attention in ALTO's consultation materials. This brief has identified 51 documented cemetery locations within 15 kilometres of the corridor centreline through South Frontenac and Rideau Lakes, using only two partial-coverage datasets. The actual number is certainly higher.

Eastern Ontario was settled by Loyalist families from 1784. Every farm that may be expropriated has been in continuous use for over 200 years. The probability that human remains are present on some of those farms in locations never formally recorded is high. Discovering those remains after a corridor is locked in creates construction delays, legal proceedings, and irreversible harm to the dignity of the deceased. This is not a theoretical objection. It is a predictable legal constraint that responsible infrastructure planning requires to be assessed before, not after, route selection.