

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: 1.4

Question No. AE16/075

Senator Collins asked the following question at the hearing on 9 February 2016:

1. How extensively has the Minister for Environment been consulted regarding the repeal of s 487 of the EPBC Act, which is within his portfolio responsibilities?
2. Can the Government provide any examples of the kind of alleged “vigilante litigation” or “lawfare” to which the Attorney-General has referred in justifying the repeal of s487?
3. On 27 September 2015, the Attorney General insisted that “no decision has been made by the Government not to proceed with [the repeal of s487]”. Is this still the case?
4. Has there been any change of policy on this matter since the change of Prime Minister?
5. The Attorney General has stated s 487 is a “unique” provision. Are there in fact other extended standing provisions under various parts of Commonwealth law?

The answer to the honourable senator's question is as follows:

1. The Minister for the Environment, the Hon Greg Hunt MP, and the Attorney-General, Senator the Hon George Brandis QC, worked collaboratively on the proposal to repeal section 487 of the *Environment Protection and Biodiversity Conservation Act 1999* (the ‘EPBC Act’). Section 487 of the EPBC Act extends the meaning of the term *person aggrieved* in the *Administrative Decisions (Judicial Review) Act 1977* (the ‘ADJR Act’). The Attorney-General is responsible for administering the ADJR Act. Accordingly, it was necessary and appropriate for the Minister for the Environment and the Attorney-General to collaborate on the proposal to repeal of section 487 of the EPBC Act.
2. The Department for the Environment provided a submission to the Senate Standing Committee on Environment and Communications Legislation in relation to the Committee's inquiry into the Environment Protection and Biodiversity Conservation Amendment (standing) Bill 2015. Submission number 135 noted that since 2000, there have been 37 third party judicial review proceedings from 22 different third party applicants in reliance on section 487 of the *Environment Protection and Biodiversity Conservation Act 1999* (the ‘EPBC Act’). Attachment A to that submission provides a detailed overview of these matters.
(http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/EPBC_Standing_Bill/Submissions)
3. Yes.
4. No.
5. There are no extended standing provisions in legislation administered by the Attorney-General's portfolio.