



POLICY BRIEF

Advancing Transaction Tools for Conservation and Climate Resilience in Vanuatu



Land and land-rights transaction tools are important elements of the global toolkit for achieving conservation and climate resilience objectives, but remain underutilized throughout Pacific Island Countries and Territories. This brief considers prospects for expanded use of such tools in Vanuatu.

The Objective: Expanding Terrestrial Area under Protection or Conservation Management

Vanuatu's 2018 National Biodiversity Strategy and Action Plan (NBSAP) emphasizes Vanuatu's commitment to Aichi Target 11 for terrestrial conservation, which is to ensure that at least 17 per cent of terrestrial and inland water areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved. However, although the Aichi Target is set for 2020, the NBSAP sets 2030 as the target date. Although the NBSAP lists current conservation areas and several sites in need of conservation, there is no thorough inventory of existing and proposed sites and their sizes to indicate how the Aichi targets are to be achieved. There is nevertheless a clear need for mechanisms to expand the total area under effective conservation management by a considerable amount.

Disclaimer: This brief is extracted from a comprehensive report that treats the topics and points in detail. The report is based on literature review, interviews and focus group discussions that captured a wide range of perspectives. The analysis and conclusions presented in both the report and this brief are those of the authors only and do not constitute a statement of policy, decision or position of SPC, AFD or FFEM.

Transaction Tools

Transaction tools involve exchanges between willing buyers and willing sellers for land or specific rights attached to a parcel of land. Three tools may be examined as means to advance conservation and climate resilience in Vanuatu:

- i. Outright purchase, in which a landowner irrevocably relinquishes all property rights to a buyer against payment. The buyer can be another private entity, a government entity, or an organization such as a land trust specifically established for the purpose of acquiring lands for conservation.
- ii. Easements, in which landowners irrevocably relinquish partial rights over property or accept restrictions on certain activities on the property, but not ownership of the property itself.
- iii. Leases, in which landowners relinquish use-rights for a defined period of time without ceding ownership of a property. Leases typically include payments based on economic value of the land, though all terms including payment amounts are subject to negotiation. Lease payments can involve private or public funds. Concessions can be considered as a special case of leases relating to public land.

These tools are distinct from imparting conservation status on an area through use of regulatory authority (with or without compensation to landowners), and also from approaches intended to motivate voluntary conservation (such as environmental education and awareness campaigns, or alternative livelihood programmes). That said, these measures may complement a transaction as when a purchase leads to formal protected area designation or a lease is accompanied by livelihood investments.

Transaction Tools in Vanuatu

Virtually all land in Vanuatu is under customary ownership and inalienable by law, and thus unavailable for purchase. Leases are the principal land transaction instrument in Vanuatu. In 2012, there were 13,815 leases in Vanuatu of which 6,803 were in rural locations. These leases have a statutory length of up to 75 years and may be renewed. One challenge for leases is the need to identify all legitimate members of a landowning group, who can be numerous, far flung, and diverse in their perspectives on land use. In at least two cases where leases were considered as a possible conservation tool the notion was ultimately discarded, despite substantial technical and financial support for the projects: the Nakau/Live & Learn International REDD+ project at Loru Forest and RESCCUE's efforts in north Efate.

Both government and communities are focused on use of the Community Conservation Area (CCA) mechanism. CCAs rely on voluntary adoption of conservation and sustainable resource management rules by a community. The community then applies to the Department of Environmental Protection and Conservation (DEPC) to formally register its area as a CCA. Responsibility for management rests with the community, with possible technical support from DEPC.

The Edenhope Nature Preserve on Espiritu Santo is an example of a lease in furtherance of conservation. The anchor of this project is a 75-year lease covering 700 hectares signed in 2010. The Edenhope team has built relationships with neighboring communities and cultivated wider interest in conservation and sustainable development. Through this outreach they identified potential CCAs totaling about 34,000 hectares, and are now working with three communities to prepare documentation for submission to DEPC. Moreover, the owners of the land leased to Edenhope have been inspired to establish their own CCA, in an area 3-4 times the size of the leased parcel. Significantly, the Edenhope team's future conservation plans rely on CCAs rather than additional leases.

Key Feasibility Considerations

The following factors influence the feasibility of expanding use of transaction tools for conservation and climate resilience in Vanuatu:

Identification of priorities: DEPC has compiled a list of priority sites, as described in Vanuatu's NBSAP and its Directory of Wetlands, but prioritization is complicated by the fact that Vanuatu's biodiversity remains poorly known. The NBSAP highlights an urgent need to inventory and map species, habitats, existing conservation areas, and priorities. This mapping effort will then inform a national planning process for site prioritization and establishment of conservation areas.

Policy context: As noted, the NBSAP reflects a commitment to Aichi Target 11, albeit with a different time horizon. Further policy commitments are reflected in the National Sustainable Development Plan (NSDP) and the National Environment Policy and Implementation Plan (NEPIP). Government policy emphasizes the central role of communities as resource custodians and users.

Legal context: As per Article 73 of the Constitution of Vanuatu, all land is owned by the indigenous people and may not be alienated from their use. Thus, land purchase is not an available option and non-customary landowners rely on leases and strata titles (meaning title to improvements) to allow a form of temporary possession of customary land. The Land Leases Act does not limit the types of purposes for which a lease may be granted; Section 68 in particular allows for restrictive agreements, such as those required for conservation or climate resilience (e.g. no logging or no development). Easements are possible in principle, but only as a government mechanism applied in the public interest, and this condition means that easements in Vanuatu are not necessarily permanent.

Social and cultural context: The most significant obstacle may be widespread suspicion and distrust of leases on the part of landowning communities, owing to a history of exploitation and dubious deal-making. CCAs are deemed more compatible with respect for local customary ownership and strong social movements emphasizing community self-reliance.

Implementation capacity and long-term management solutions: There is a marked dearth of actors with adequate capacity to pursue transaction tools in Vanuatu, reinforcing the DEPC perspective that for the time being the CCA remains the core tool for site-based conservation. In the absence of other capable actors, improved community management of their own lands and resources through establishment of CCAs, with support from DEPC (and others when available/appropriate), is a pragmatic response to the current context. However, there is limited capacity for proactive outreach to communities relevant to particular key biodiversity areas or sites of importance for climate resilience to encourage consideration of CCAs.

Financing options: Financing for the use of transaction tools would rely principally on conventional conservation funding sources: bilateral and multilateral aid flows, and philanthropic support from individuals, foundations and the private sector. The challenge in Vanuatu appears to be less a matter of identifying funding sources, and more one of absorptive capacity.

SYNTHESIS OF FEASIBILITY CONSIDERATIONS FOR VANUATU^{*,**}

	PURCHASE	EASEMENT	LEASE
Identification of conservation priorities	1	1	3
Policy context	1	2	2
Legal context	1	3	5
Social and cultural context	1	2	2
Implementation capacity	2	1	2
Financing options	1	1	3
Long-term management solutions	2	2	2
Average Score	1.3	1.7	2.7

* Each factor is scored from 1 to 5 where 1 means *least conducive to feasibility*, and 5 means *most conducive to feasibility*.

** The numbers reflect initial scoring based on desk review, interviews with key informants, and group discussions in stakeholder workshops.

Recommendations

Pursuing a lease given the contraindications described above requires clarity as to what a lease can accomplish above and beyond a CCA at a particular site, including a strong case for introducing payments into a context where conservation management is largely voluntary. Protected area category definition, spatial prioritization and policy formulation and planning are currently fluid processes in Vanuatu, with key legislative, regulatory and execution mechanisms under development. An effort to apply conservation leases before these processes are more mature may complicate the government's task by impacting community perceptions, precedents, messaging, and conservation finance flows.

Leases and easements are not necessarily out of the question. Leasing arrangements in furtherance of conservation have been used in a small number of cases. These might not be easily replicable in other parts of the country, but they show that the legal framework for long-term leases is in place and can be applied to conservation, and that potentially a fairly large area can be covered under a lease without evoking conflicts of interest among those who claim the land. Although such fortuitous contexts may be rare, a complete strategy for transaction tools should include a means by which to respond to such opportunities when they arise. In particular, the RESCCUE work in North Efate should continue in light of this potential, building on past investment in enabling conditions for use of conservation leases.

To date, the government has largely been reactive in responding to local community CCA proposals. Given financial means and capacity, DEPC could more proactively approach communities with conservation priority sites. CCAs could be combined with stronger, more explicit incentives such as improved access to education or health services, provision of scholarships, or other socio-economic investments identified in a participatory process with community members. Such incentives will also make conservation better able to compete against less sustainable commercial land development. This recommended transition to a more proactive role for DEPC requires clear definition of priority potential sites, which will require an inventory of potential CCAs in sites of national interest.

A community technically is permitted to cancel their CCA. However, if the area of the CCA is of national biodiversity significance the Director of DEPC will intervene. The Department will do all it can to discourage the community from canceling the CCA and work together with the people to revive interest

in conservation. Therefore a particularly valuable form of support would be to work with DEPC to examine strategies and tools to make such interventions as effective and locally palatable as possible.

A national trust body for environmental conservation could serve an important role in convening stakeholders, liaising among relevant government agencies, and leading ambitious, ground-breaking conservation initiatives. A Vanuatu national conservation trust could use greater flexibility to support DEPC efforts, serve as a financing conduit for conservation funding streams that cannot flow through government, and act as a trusted intermediary between communities and other potential conservation partners, including government. Particularly in terms of long-term financing mechanisms, a national trust could generate options that currently are unavailable, which could become especially important if the opportunity space for conservation leases expands. The North Efate Conservation Management Deed, signed by the North Efate Environment Networks and Tourism Associations and funded in part by a voluntary 10% levy on tourism activities, offers a valuable precedent for such institutional development.

In sum, recommended steps to expand use of transaction tools in Vanuatu include support for:

- Enhancing the capacity (in terms of human resources as well as operational budget) of the DEPC to strengthen its role in mapping, zoning and supporting CCAs. In the immediate future this will depend on availability of dedicated official development assistance (ODA).
- A survey to inform DEPC work on a spatially explicit national CCA strategy, examining CCA potential, community commitments and management capacity, risk of landownership disputes, and the potential for eventual transition to long-term leases. This survey could be conducted by local NGOs and the University of the South Pacific in collaboration with DEPC.
- A more proactive role for the DEPC in providing knowledge and infrastructure support to communities to encourage CCA establishment in priority sites, following a national strategy.
- The establishment of a national trust body and associated financing mechanism for environmental conservation. Funding for this mechanism would rely on ODA and international conservation partners in the near term.
- Expansion of international conservation NGO efforts to facilitate CCA establishment with local communities, in collaboration with DEPC, in priority sites identified in a national strategy.
- Continued efforts to apply conservation leases in North Efate, building on site-based investments in enabling conditions that have taken place under RESCCUE.

