

DEMARCATION AND DOCUMENTATION OF CUSTOMARY LAND MANUAL



Version 2020 - Prepared by Liz Neate, LEMU International Volunteer and the LEMU Program team with Guidance from Trócaire

Updated By



With Support from



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I. Introduction

Uganda has four tenure systems; Freehold, Leasehold, Mailo and Customary tenure but the bulk of the land in Uganda is held under Customary land tenure. Land is mostly owned by the family and managed by the head of the family in trust for other family members. Some of the land that is communally owned while a small percentage is individually owned. The clan leaders play an oversight role on land allocations, marking land boundaries, conducting land sales and resolving land-related disputes. The final decisions are made jointly by the clan leaders and the head of household or rights bearers.

The National Land Policy statement No 108 states that the Ugandan Government should enhance and update the capacity for land rights adjudication, demarcation, survey, and mapping services. One of the proposed strategies is to: "Recognize and confer official status to community based boundary marking systems in all tenure systems." This recognizes the importance of the traditional methods of boundary marking in Ugandan law.

The Registration of Title's Act of Uganda CAP 230 clearly sets out the requirements, responsible institutions and prescribed fees for formal registration of Land held under Freehold, Mailo and leasehold. The Land Act provides for issuance of a certificate of customary ownership (CCO) and still supports conversion of customary tenure into a freehold and this contradicts The National Land Policy which states that all 4 tenure systems shall be at par so why convert then? The current CCO in its form is not a finished product and is subject to changes without a legal backing of the changes. The Marking of boundaries and drawing maps being promoted by LEMU is an attempt to have a document of evidence of rights as opposed to the oral way of showing land size using trees or anthills etc. Having one's land documented and demarcated using MyGPS reduces the chances of uprooting boundary marks and land grabbing because the coordinates will not change hence promoting better evidence of ownership. However, different land actors are engaging the government to ensure that the customary registry is established and customary tenure documentation is included in the land Information system. By implementing this kind of documentation gives the land actors an opportunity to engage with government to hasten the process of having a functional customary registry like other tenure systems but also reduces land disputes thus enables households to utilize their land productively.

This manual will support community based demarcation and documentation of land using appropriate customary methods that support women's right to access and control land. It specifically provides:

1. Guidance for IP staff and selected clan leaders to capture coordinates, mark boundaries and draw maps that provide better evidence of land rights
2. Steps for determining the estimates of the land area
3. A thoughtful methodological approach to promote inclusive, participatory land demarcation that can lead to formal recognition of customary land rights

This process will enable customary land owners agree their boundaries, acquire maps which are endorsed by neighbors, Local Council leaders, Area Land Committee representative and Iteso Cultural Union Sub County Chairperson hence increasing legitimacy and providing better evidence of land rights which is a shift and improvement from the oral approach

2. Promoting better documentation of rights under customary tenure;

The constitution of Uganda states that land belongs to the citizens. This means that the people own their land with or without formal legal title. The 1998 Land Act states that customary tenure is governed by the rules generally accepted as binding and authoritative by the class of persons to which it applies.

There are many benefits of having tangible demarcation of land under customary tenure:

- 1- Having documentation with mapped boundaries secures the family's land and protects the land from land grabbing;
- 2- Having mapped demarcation of boundaries allows families to more easily measure the size of their land;
- 3- Boundaries are better communicated, reducing potential for land conflict with neighboring occupants. In some cases, boundaries can become a source of contention with neighbors. Therefore, participatory and inclusive mapping approaches are needed to ensure that there is geographic consensus between neighbors before the boundaries are formalized.

For a long time, stakeholders demarcated their boundaries by planting boundary trees, sketching hand-drawn maps and documenting the names of the land owners. However, in spite of these, some neighbors continue to uproot boundaries of neighbors. The Penal Code Act states under Section 338 Any person who willfully and unlawfully and with intent to defraud removes or defaces any object or Mark which has been lawfully erected or made as an indication of the boundary of any land commits a felony and is liable to imprisonment for three years. However, these acts are sometimes done undercover, without the knowledge of the other party, and it is difficult to enforce the penalty without evidence.

A need to improve the process has led to the adoption of using Google mapping which provides a useful tool for estimating land area and boundary distances.

3. Steps for customary land demarcation and sketch map drawing by using traditional approaches and Google Maps

- 1) **Expression of interest by land owners;** during this stage, the land owners will express interest in demarcating/markings their boundaries through the clan or local leaders. This is a voluntary process and no attempts should be made to coerce land owners. There must be agreement among the members of the household. When an individual or family or community either verbally or in writing makes a request to a clan leader or the office then such individual or family or community is deemed to have expressed an interest in taking measurements of their land.
- 2) **Ascertaining land rights;** at this stage, the Chairperson LCI and/or the village clan committee of each clan, of the area where the land is shall convene a meeting of a team composed of: people with rights to the land, clan members, neighbors to land being demarcated, elders who know the boundaries of the land and the persons with interest in the land. The LC will mobilize all concerned parties and neighbors for the meeting. The Family Land Rights and

Lineage Tree shall be used to affirm rights over land and ensure that no family members are excluded. Women e.g. widows, divorcees, daughters will all be part of the meeting and women will be engaged to verify the information in the FLRT drawn. The clan and LC will determine if the neighbors are in agreement with the planned exercise.

- 3) **Notice to interest groups;** the clan committee and local leaders shall then agree on a date for land demarcation. Once the boundaries are clarified and are not contested to by owners of the adjacent land and other interested parties (including clan leaders), the date and time of measurement and boundary marking of the land shall be fixed and due notice will be given.
- 4) Same as in the land regulations, the committee shall walk around the perimeter of the land, tracing, ascertaining, verifying, determining and marking the boundary of the land in the presence of the applicant, neighbors, owners of adjacent land and other interested parties.
- 5) **In marking of boundaries,** the committee shall use boundary markers commonly used in the respective area. Boundary markers can be stick markers or planted trees. There are two approved boundary trees that are used in Teso i.e. *Ejumula (Jatropha curcas)* and *Eligoi – ‘Pencil Cactus’ (Euphorbia tirucalli)*. When marking the boundaries, any turning points, corners and other changes in direction shall be given prominence. In between them, boundary markers shall be placed at such intervals that they can be easily seen one after the other.
- 6) **Preparation of a sketch, share copies:** This is done by reviewing satellite imagery, identifying land boundaries on the satellite imagery (either through physical boundaries or through GPS coordinates) and then using an in-built tool in google to take measurements. The GPS coordinates are placed on Google maps and then this will give us the image (map) of the given land and this is later printed and signed by land owners, neighbors in the presence of the clan, LC and Area Land Committee. Copies are given to the land owners, the clan, the Sub-County (Area Land Committee), Copies are kept by the land owners, the organization and LC. Women are usually encouraged to be part of the meetings and boundary demarcation exercise and when the map is out the women also sign or use their thumb print on the map and consent agreements. Using satellite image follows is an improvement from drawing maps by freehand and drawing physical features there to. The satellite map gives an aerial view of all features on the land and this easy to relate with for community men and women who hold land under customary tenure.

It should be noted that all measurements done in this way will only be estimates and do not substitute for on-the-ground survey measurements. Although points measured from satellite imagery can provide a good areal estimate, it is not as precisely accurate as tapes on the ground.

Areas should therefore always be reported as indicative estimates.

Demarcation Processes

This next section of the document is in three parts, namely;

1. Measurements using known physical features. Knowing the measurement will enable demarcation (marking of limits of land. The process is not a formal survey and will not lead to formal recognition of customary land rights however, it provides better documentation for proof of rights under customary tenure.
2. Measurements using GPS to identify locations, and to identify the geographical positions of unmarked boundaries. Knowing the surface area or size helps to accurately document the

land allocation within a family. Having proper documentation on the land with recognized units of measure guides the land owners determine how to allocate land to different land rights owners in a given family.

3. Creating maps to print and share

Areas measured in square meters or square kilometers can be converted to acres as follows:

1 sq m = 0.000247105 acres

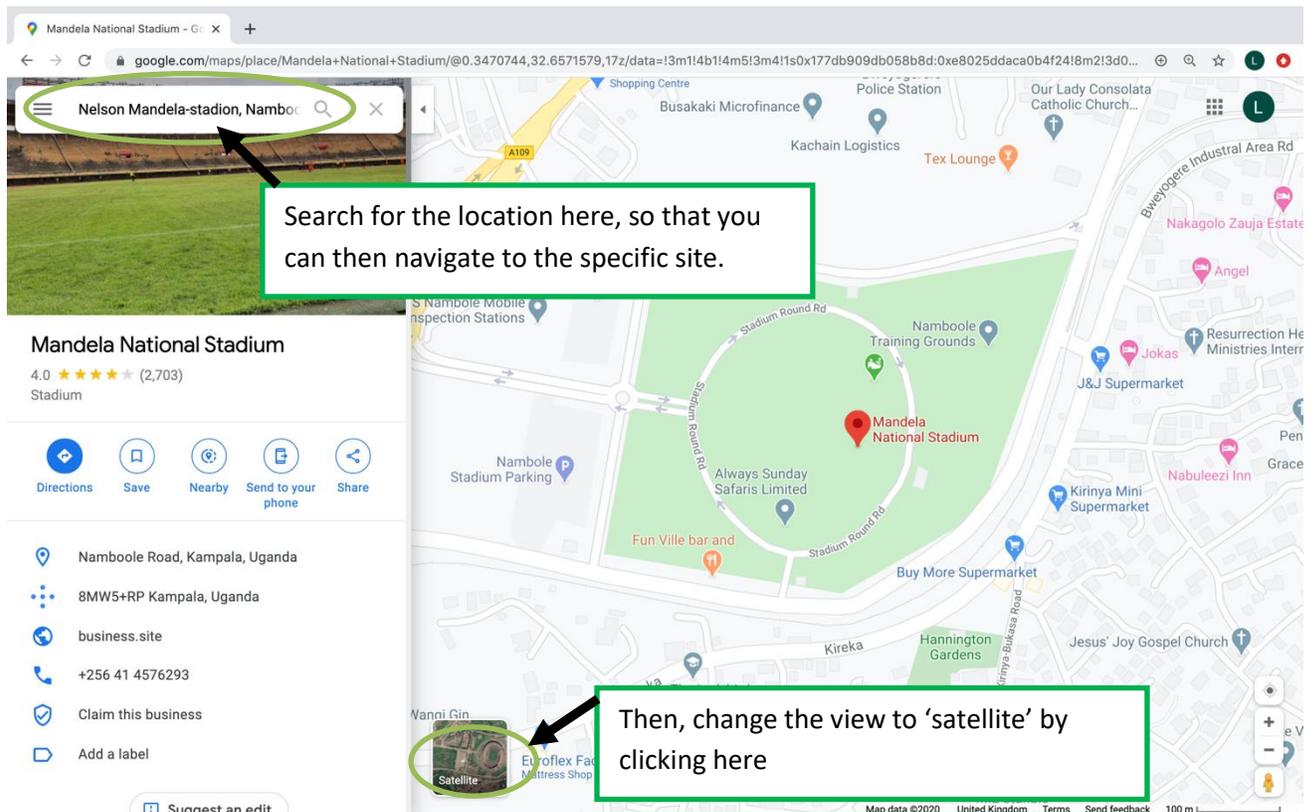
1 sq km = 247.105 acres

1) Measurements using known physical features

If you **already know the location and the boundaries, and the boundaries are marked by physical features on the ground**, this can be done as follows:

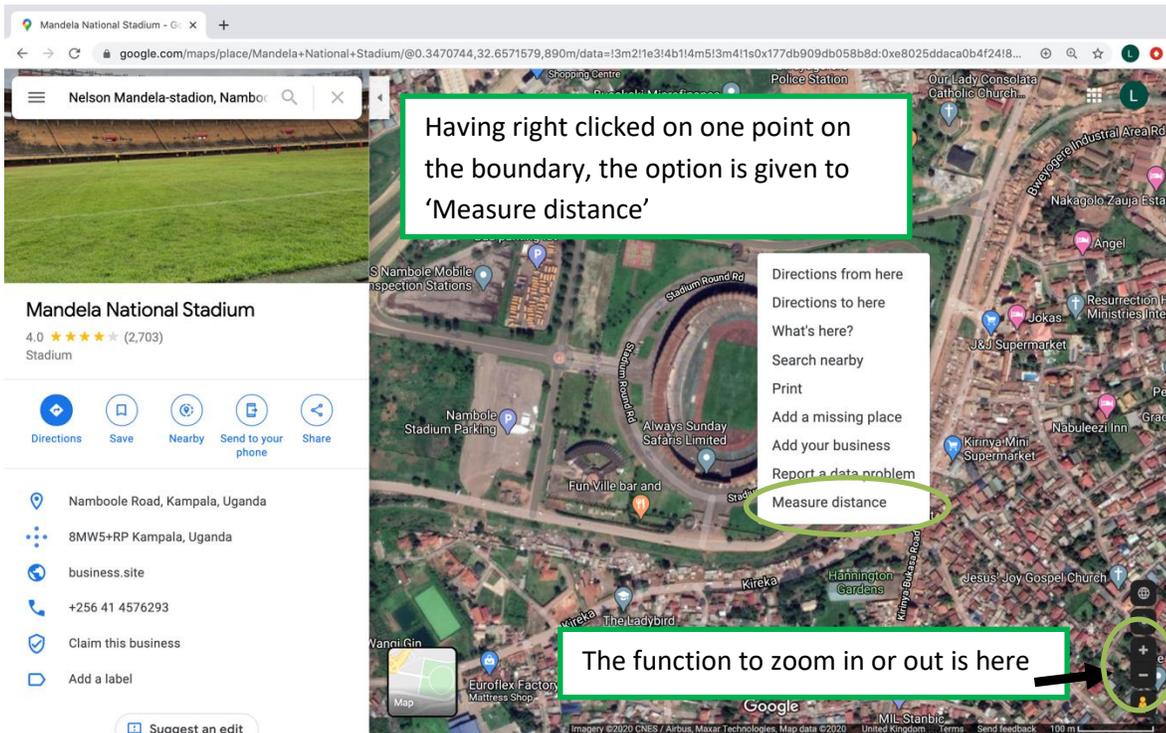
- i. On your computer, navigate to google maps: <https://www.google.co.uk/maps>
- ii. Find the location by using the search function. As an example, we will look at Nambole National stadium as shown below.

Figure 1: Finding Location



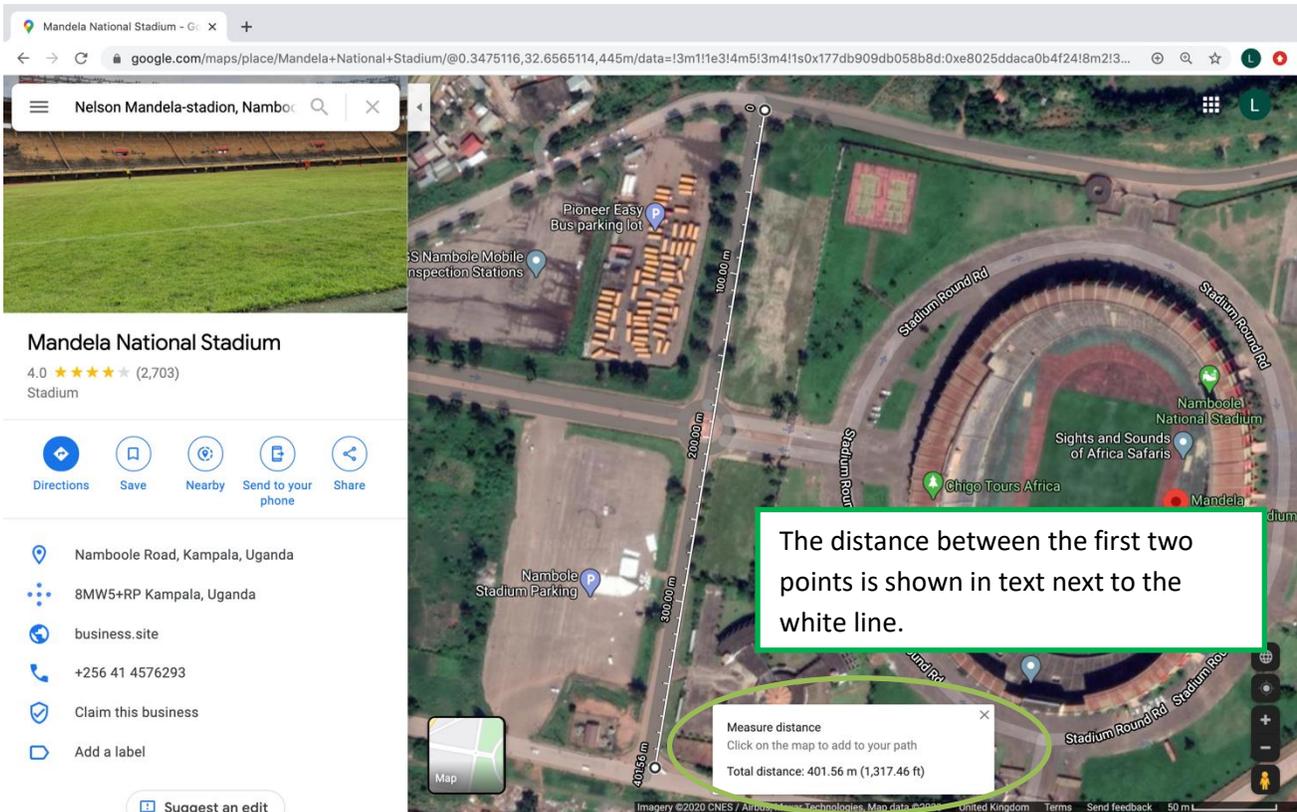
- iii. You can then use the 'zoom' function to closely identify the boundaries of the site you are looking at.
- iv. Once you have found the right site, right-click on a point on the boundary and it will bring up a menu of options including 'measure distance' as shown below.

Figure 1: Finding 'Measure Distance' function



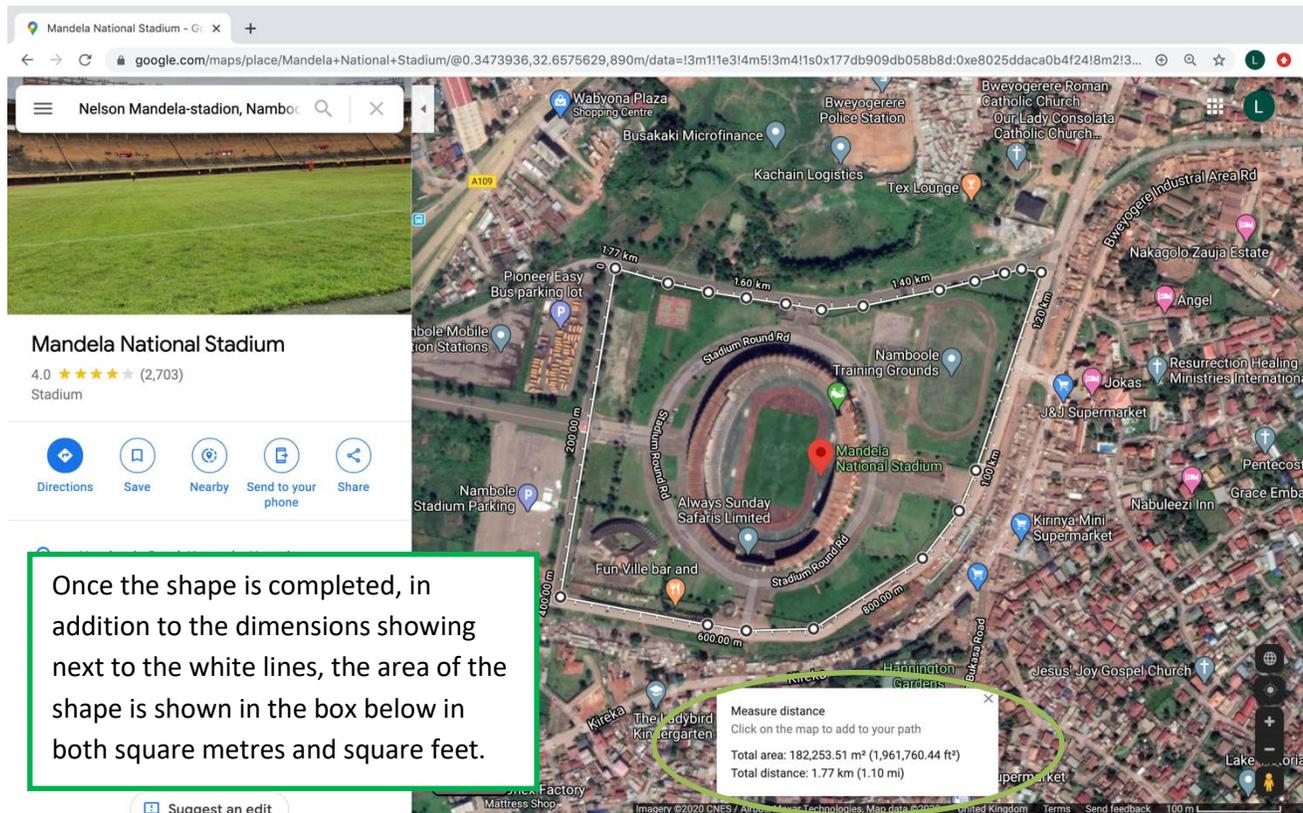
- v. Once you have selected 'Measure distance', click on an additional point on the physical boundary. The approximate distance between those points (in a straight line) will be shown. In the example below, the distance between the first two points is approximately 9.71 meters.

Figure 3: Measuring Distance



- vi. Complete the boundary by clicking on additional points on the boundary as illustrated below. Consider carefully the shape you are making: a regular shaped plot like this example may only need four points (corners), but an irregular shape or any curves will require many points to estimate the area as correctly as possible.

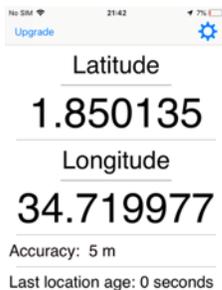
Figure 4: Completing the boundary



2) Measurements using GPS to identify locations, and to identify the position of unmarked boundaries

If you **do not already know the boundary** or **could not already identify the boundary by physical features on google maps** then you will need to physically stand on the boundary and use an app on your phone to take down the co-ordinates of enough points to undertake the exercise shown above. There are a wide range of free apps that can be used to show coordinates on Android and Apple phones. Current Android examples include 'GPS coordinates' and 'My GPS coordinates'. Current Apple examples include 'My GPS coordinates'. The practitioners who will use these tools should identify the app that they feel most comfortable using. I suggest 'My GPS Coordinates' as a simple option.

- i. Prepare for the visit by considering the approximate shape and size of the land in advance. If it is a small, square piece of land, you will need fewer coordinates than a large or irregularly shaped piece of land. Try to plan in advance where you would like to take the coordinates. An existing sketch map (shape of a map or drawing shape of the land on a piece of paper using free hand) is helpful, so that you can mark where you will need to take the measurements.
- ii. Move to the first point on your plan and open the app. Note that the GPS function of a phone does not require a data signal, so it will not incur a cost, and will work even where there is no network.
- iii. When you open the app, it will show you your Latitude and Longitude. Note these down, as they will later be used to identify your measurement point on Google Maps. For example, I have just identified the following at my current location:



The accuracy in this measurement is within 5 metres, which shows why the measurement can only be an estimate. Note down the coordinate, although you only require the first 4 numbers after the decimal point, e.g. 1.8501, 34.7199

- iv. As you walk the boundary and take your coordinates, be sure to also take notes of identifying features on the ground that you could correspond to the aerial photo such as a road or wall. If these comprise the boundary in any case, you should use them as you complete the map.
- v. Plant boundary marks at every point where coordinates are taken from
- vi. Once you have completed the exercise, you will be able to use the coordinates to identify the boundary on Google Maps using satellite view. If there is no network, this may have to happen after you return to the office, which is why gathering lots of information on site is important. Work on the calculations and plotting the boundary as soon as possible after your visit.

3) Creating maps to print and share

1. When you have finished marking the boundary and calculated the total area in Google Maps, take a 'screenshot' of the Google screen (press Ctrl + Prt Sc).
2. Open Word, and create a landscape page, in A3 if the map is large.
3. Paste (Ctrl + V) the screenshot into the document and crop as appropriate. You should leave the north arrow and scale visible.
4. All people who participate shall append their signatures on the maps drawn to confirm that boundary tree planting went on well without any dispute or disagreement. The map will then be endorsed using their respective stamp or official seal. This stamp is rubber, placed on an ink pad then onto the paper thus leaving a mark similar to a seal.

- Copies of the map duly signed shall be distributed to; People with land rights, LCI chairperson; Village Clan Committee chairperson, Parish Clan chairperson and Government sub county chief.

Ensure that you add:

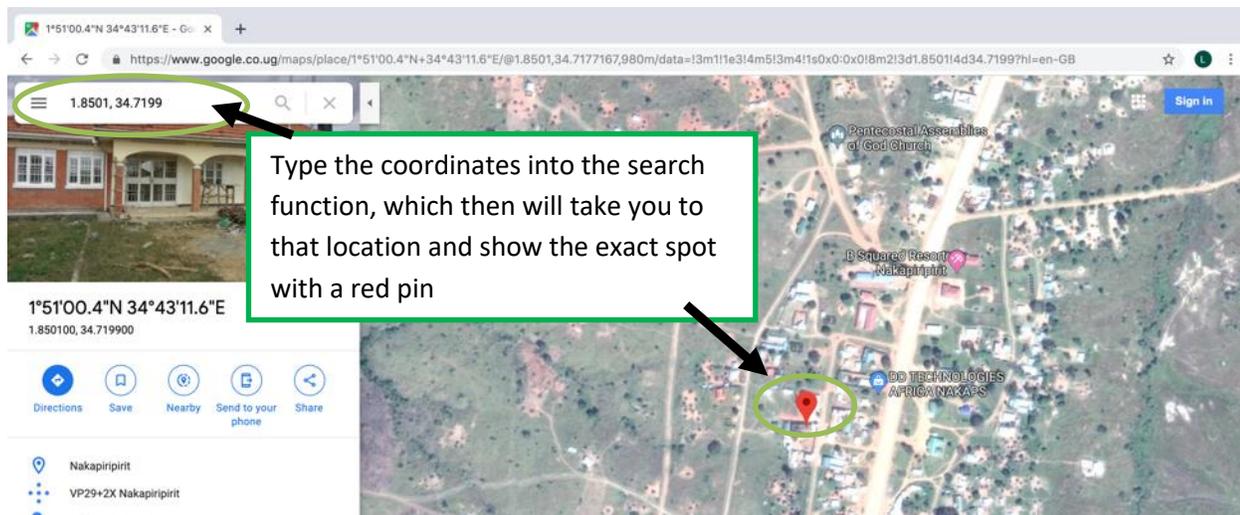
- A clear title of what the map shows including its purpose
- The date of the map's creation
- Labels showing the neighbors
- At least one of the coordinates taken (so that another person can identify the location at a future date).
- A note to show that the measurements are indicative and not equivalent to a full survey
- A note of who took the coordinates, and who they were with when walking around the boundary.

An example is shown below;

Before you visit: fully charge the device which will take coordinates; take a spare battery if possible; take any existing sketch maps, take plenty of paper for notes and sketches.

- vii. To measure the area using the coordinates you have taken, pick one of the coordinates to find the right location:

Figure 5: Finding Location



- viii. Zoom closely into the place where you will begin to measure. Right click on the spot to select the 'measure distance' tool, then search for your next coordinate.

Figure 6: Finding Measure of Distance Tool

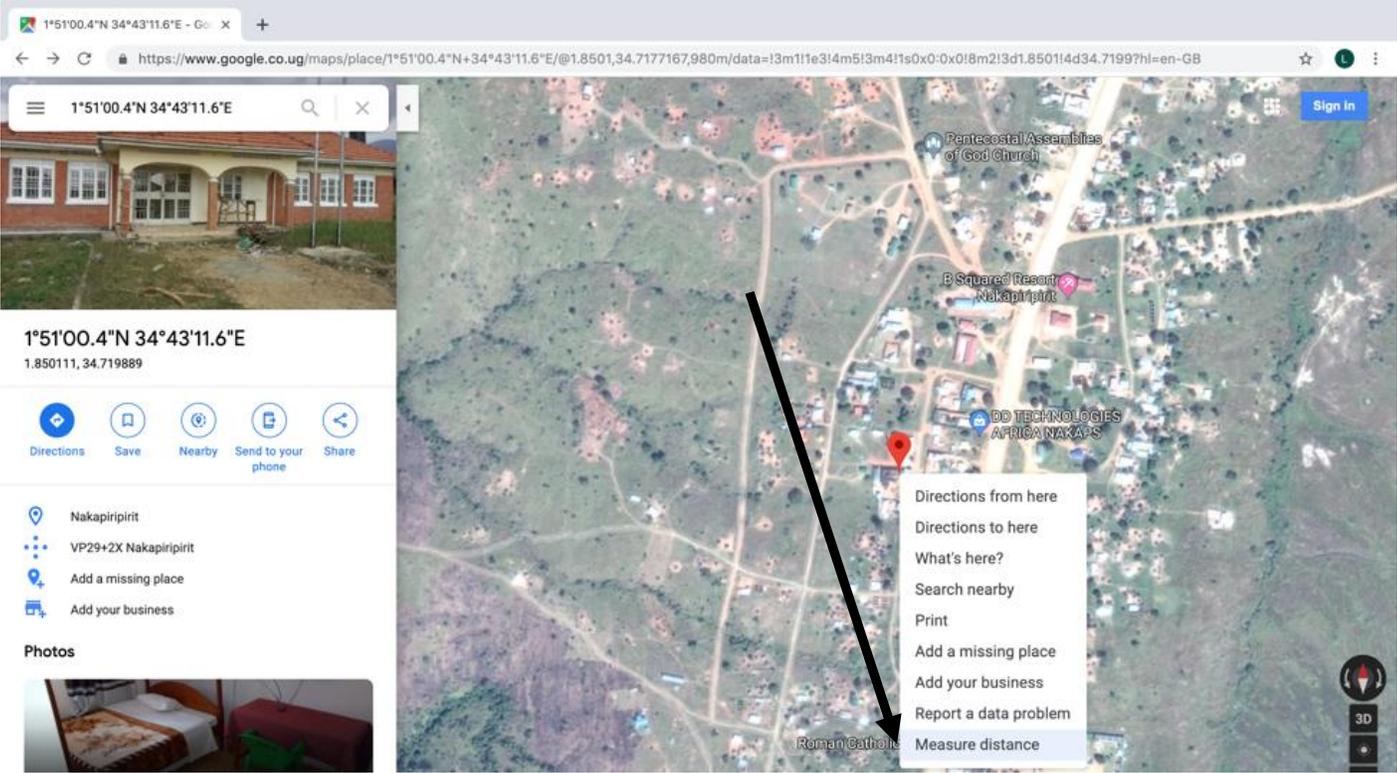
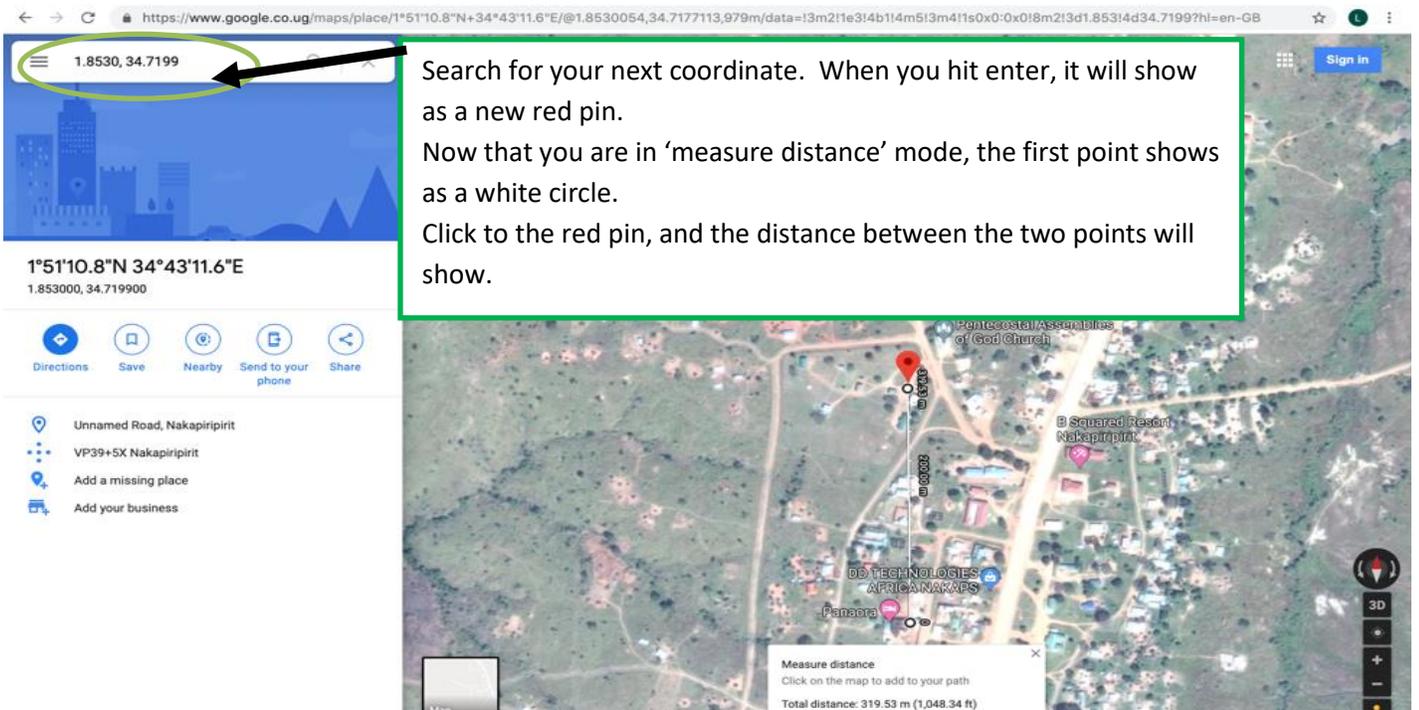
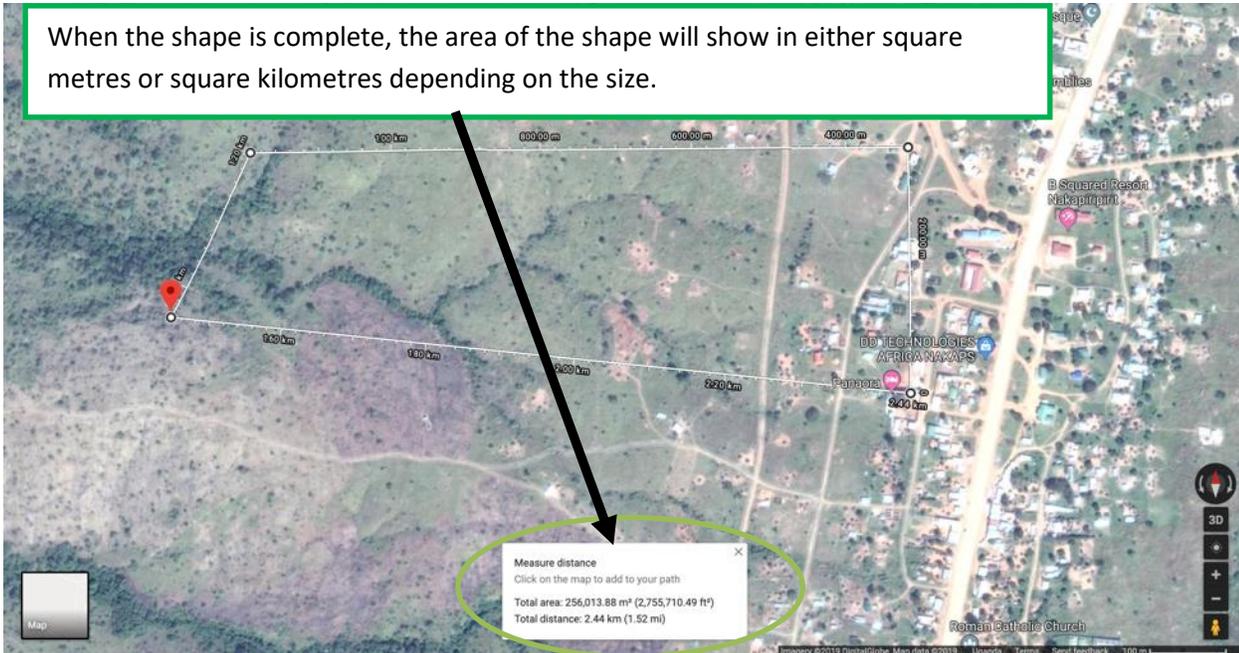


Figure 7: Measuring Distance



ix. Complete the steps above for all of the coordinates until you have completed the shape.

Figure 8: Determining the Area



Important note: In practice, you will use a combination of coordinates and physical features to complete the map. If you noted on your visit that the boundary was a wall or road, but the coordinate is slightly different, then you should measure to the wall or road as applicable. The coordinates are just

an indication in the absence of other identifying features (remember the accuracy may only be up to 5 metres), and you need to use your judgment in each case.

MAP OF AWICI SARA'S LAND IN TUMTUM VILLAGE, ODOOT PARISH, PALAM SUB COUNTY. DATE: 7TH AUGUST 2019.



Total area: 2871.61m² (0.709 acres)

Disclaimer:

The sketch map appearing above shows ownership and land rights of Awici Sara's land of Tumtum village in Palam sub county and should not be used for any other purpose except for prove of ownership. The measurement above are indicative and not equal to a full survey.

Sketch map Drawn by: Marian Aladot and Ewinya Andrew in the presence of Awici Sara, Ignatius and Anguria Charles during the training of Partner staff at LEMU, Soroti Office