

Johannesburg, 08 August 2014



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CUBES Submission to City of Johannesburg, re: ‘Informal Trading: Inner City Promulgation and Designation of Trading Areas’, after the consultation meeting held at the Metro Center, 06 August 2014.

CUBES submits the following comments and suggestions on the process and the content of the above consultation.

COMMENT 1

We welcome the consultation that the City of Johannesburg has started, the City’s recognition of the importance of informal trade, and its inclusion of street trading in its future plans.

However we are concerned that meaningful participation is not possible on the basis of the current information presented:

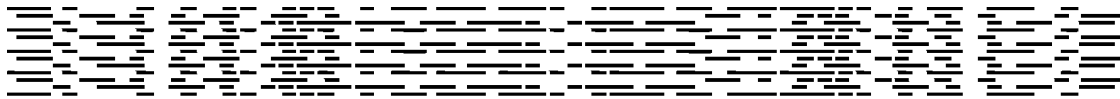
- i. Elements that are key to the debate and are preconditions for the City Promulgation and Declaration of Trading areas are omitted from the City’s presentation to stakeholders. In particular
 - the number of existing traders (licensed and unlicensed) currently in the Johannesburg CBD,
 - the number of street trading sites (of various kinds) that the City is envisaging, and
 - the list of streets that the City of Johannesburg is considering for prohibition or restriction of trading.
- ii. As a result participants in the consultation process do not have sufficient information to properly consider or debate the City’s proposal.
- iii. The spatial and general principles and positions offered in the City’s presentation and documentation are outlined without the provision of criteria or motivations. We are thus unable to assess the implications of these principals. It is not clear what judgments and criteria will inform the application of these principles.
- iv. So far stakeholders’ representatives have been consulted separately and have not shared their views in a joint, all-inclusive process. This limits the possibility for participants to discuss the diverse set of concerns and suggestions around the informal trading issue, to build relationships, and

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to forge common ground. At least four groups have called for a second round of consultation that would be all inclusive. The City has thus far not followed up on that request, which we reiterate here.

SUGGESTION 1

- a. We ask the City of Johannesburg to set up a second consultation jointly with stakeholder groups, before the demarcation plan is published and open for objections in the 21 days period
- b. We request that at that consultation the numbers of existing traders (licensed and unlicensed), number of intended street trading sites, and list of streets intended to be prohibited for trading, are presented to all stakeholders' representatives.
- c. The sharing of submissions to the City of Johannesburg by each stakeholder (for instance on the City's website) would also increase transparency, widen participation and enhance the possibilities of a constructive debate between the City and all stakeholders: we suggest a sharing platform be created.

COMMENT 2

The City's presentation does not analyse past problems, failures or achievements in street trading management and related aspects of urban management. This does not provide the basis for discussion on how a new way forward can satisfactorily overcome past problems. .

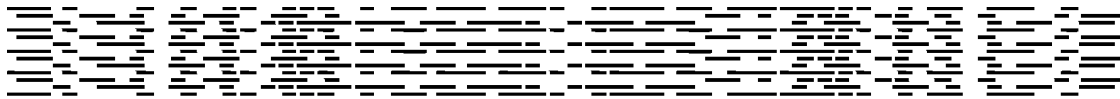
Research from CUBES and Wits has highlighted the weaknesses of previous approaches. In particular it has highlighted

- the extreme limitations and negative side effects of a restrictive approach to street trading (i.e. providing far less trading sites than there are existing street traders thus rendering illegal the majority of traders);
- the subsequent confusion between urban management, street trader management and by-law enforcement; and
- the lack of proper institutions and institutional mechanisms to manage street trading in efficient, transparent and sustainable ways.

The City's presentation is silent on management arrangements. All stakeholders state that they are not against street trading per se, but that they are opposed to unmanaged street trading. Managed street trading requires a realistic, enforceable and transparent management plan. Details of this essential management dimension are missing from the current consultation discussions, and discussing and demarcating trading sites in the absence of this management is not logical or productive.

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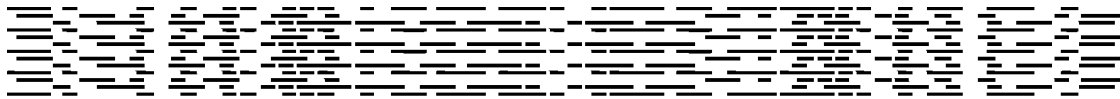
SUGGESTION 2

- a. An analysis of the problems, failures and achievements of past management approaches, and a constructive and frank debate with relevant stakeholders on the lessons to be learnt from this experience
- b. An engagement with all stakeholders on key principles and institutions for a street trading management plan. CUBES has done some research on the matter, and is very willing to engage with the City in this respect.
- c. The general principles and institutions for street trading management in the inner city need to be discussed at the same time as consultations on the spatial plan for trading, as they are related. In the absence of this, the promulgation of prohibited streets for trading is premature and should be postponed.

COMMENT 3

The presentation is unclear on the criteria considered by the City for the promulgation of trading and non-trading streets.

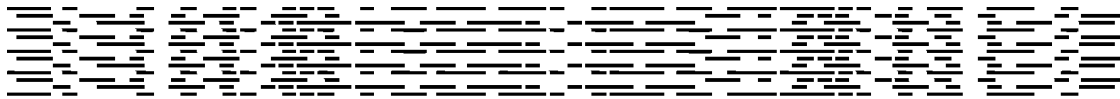
- a. Some of the criteria presented appear contradictory, such as “The City will allow trading in streets which are close to public transport facilities and which carry many pedestrians” on the one hand; and on the other hand “Street trading will not be allowed along... Rea Vaya BRT routes”.
- b. It is also not clear why all Rea Vaya BRT routes are prohibited for trading– in some case there are wide pavements and trading would not constitute an obstacle to pedestrian and vehicular mobility. Moreover Rea Vaya routes are transport routes and the presentation mentions the important link between trading and transport facilities.
- c. It is not clear what the City deems to be ‘mobility routes’, and which streets it identifies as these. In any cases, some streets with heavy vehicular movement are, in some parts, suitable for street trading (cf Empire road at the intersection with Clarendon): a one size fits all can only be indicative (not prescriptive) but each case should be looked at carefully.
- d. International case studies, academic and professional expertise, show that there are not simple technical criteria that define which streets that are ‘good for trading’ and in which streets trading should be limited or prohibited (e.g. because their pavements are ‘narrow’). There are in fact a number of technical and social criteria AND local practices and consensus on where trading can be accepted and accommodated.



- e. Innovative arrangements for the accommodation of street trade can be made on most streets. These depend on local design responses and on knowing and then working with the precise conditions of each street or section of street, including with issues of width, shopfrontage, relationships between formal business and trader stalls, typologies of stalls, etc.
- f. The argument is made that the city's 'carrying capacity' for street trading has been exceeded, and that there are a 'limited number of street trading sites'. These assertions have not been backed up with scientific or technical information, and they probably cannot, as the concept of 'street carrying capacity' is not an engineering or technical tool, but has been defined as a mix of technical considerations on the built environment, and existing social practices in specific contexts.
- g. Site allocation has traditionally been an administrative task but it is highly political – with the risk of patronage and bias in that political process. A simple assertion around street 'carrying capacity' (which has been shown above to be a contested term) can readily be presented as a technical fact in order to limit trading in certain areas, but in fact the location and density of trading must be locally negotiated and designed and catered for, in addition to responding to wider spatial and policy concerns.

SUGGESTION 3

- a. Some principles are general, and others can only be determined at the precinct or street level, based on existing concentrations of traders (licensed or not), and perhaps also taking into consideration other spaces that have been prohibited in the past without proper consultation (cf Braamfontein CID).
- b. General principles for promulgating trading and non-trading streets need to be clarified and further debated with all stakeholders. The typology of streets and the City's ideas on the broad principles surrounding the nature, typology, layout and density of the street trading depending on this typology should be presented and debated with all stakeholders, to reach a reasonable degree of understanding and consensus.
- c. A list or a map of the streets prohibited for trading needs to be presented to all stakeholders, for a grounded debate and test of how these general principles are applied and whether they work in practice.
- d. A formal process inclusive of all stakeholders' representatives (to possibly be linked to management institutions, such as a more permanent multi-stakeholders advisory committee on street trading) should be set up that defines what are useful general principles, and what can be decided at a precinct or area level.

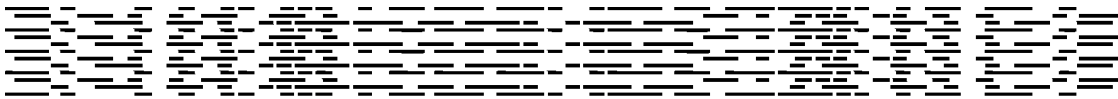


- e. An alternative approach is arguably simpler and more sustainable: to map all existing street traders and reflect their knowledge about which streets are 'good for trading' and also where trading does not work well. The map and information could be presented to the multi-stakeholder committee for general debate and position. Then, in each of these trading precincts or streets, consultations with local stakeholders could be held to address the local congestion and traffic issues this presence of trading possibly generates, and locally adapted demarcation and design solutions could be found. The possibility of recourse should be provided for, in case there is local consensus based on precinct specific contexts, for some of the general principles to be lifted.

COMMENT 4

There is a concern that in spite of the important indications from the City that trading will not be limited to markets, the City of Johannesburg is continuing to adopt a restrictive approach to street trading, by rendering illegal a majority of the existing street traders. CUBES continues to maintain that this is an unsustainable approach. International experience shows that

- A restrictive approach requires heavy and permanent police enforcement to keep the pavements unoccupied.
 - o Management is forced to focus on enforcement, far more than on development. This is not conducive to a trust relationship between the City and traders, the City and residents.
 - o Expenditures in terms of policing might far exceed expenditures that would be needed for management of more street trading sites.
 - o Street trade models that occupy streets in managed ways have been shown to be more efficient (and less costly) in controlling the traders and the streets (application of by-laws) than patrolling police officers.
- A restrictive approach, or the public creation of scarcity of street trading sites, does create structural incentives and opportunities for corruption and bribery of city officials, and patronage networks between the City and traders as well as amongst traders themselves. It has huge institutional, social and political implications that cannot be dealt with only by blaming a 'lack of enforcement'.
- A restrictive approach is far more difficult to adopt technically and politically, than a more inclusive approach:
 - o The differentiation between 'legal' and 'illegal' traders is complex to make and maintain (scarcity of trading legal sites or cards)



create corruption and fraud). This confusion is arguably one element that caused Operation Clean Sweep and continues to muddy the verification process. It is not going to disappear as it is a structural issue.

- Providing limited trading sites for existing street traders will provide in-fights within the sector and may trigger violence, including along xenophobic lines.
- Accepting that all existing traders should be legalized and accommodated in the inner city (with a proviso on where their trading site should be, depending on congestion, mobility and safety issues) is a far easier approach and creates conditions for the participation of all in a well-managed inner city.

SUGGESTION 4

The City should give serious consideration to alternative options to its long standing restrictive approach. An inclusive approach that aligns with City strategy for an inclusive inner city has a number of immediate political and financial benefits; it has long term advantages in terms of sustainability of management, shared responsibilities, and developmental outcomes for the people of Johannesburg.