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Screening social incidents in the global mining industry

A concept note

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The Sustainable Minerals Institute (SMI) is a world-leading research institute[2] committed to developing knowledge-based solutions to the sustainability challenges of the global resource industry, and to training the next generation of industry and community leaders. The Institute is transdisciplinary, and our work is impartial and rigorous. Our research integrates the expertise of production, environmental and social science specialists to deliver responsible resource development.

Centre for Social Responsibility in Mining

The Centre for Social Responsibility in Mining (CSRM) focuses on the social, cultural, economic and political challenges that occur when change is brought about by mineral resource extraction. The Centre contributes to industry change through independent research, teaching and by convening and participating in multi-stakeholder dialogue processes. Our team consists of geographers, anthropologists, sociologists, political scientists, economists, development and natural resource specialists.

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[1] QS World University Rankings and Performance Ranking of Scientific Papers for World Universities, 2018.
[2] The University of Queensland ranks first in the world for mining and mineral engineering, 2018 Shanghai Rankings by subject.

Contents

1. Introduction

This concept note is about the 'screening' of social incidents within the global mining industry. In this context, 'screening' refers to a preliminary step when an incident is assessed as to whether it warrants investigation. Identifying, investigating, and addressed social incidents in mining falls within the field of 'risk management'. Social incidents are often 'screened out' of investigation and risk management processes because they are not considered to be significant to the business. In doing so, mining companies are missing opportunities for corrective action and remedy.

This concept note provides a rationale for improving social risk management, and a schematic for orientating the screening process so that significant incidents involving local communities and project-affected people are investigated and prioritised for learning.

Investigative processes, which include techniques that range from fact-finding, other forms of evidence gathering and analysis, help to understand the conditions and causality of an incident. When learnings are incorporated into planning processes, investigation findings can be used to avoid future harm.

There is good reason to 'screen in' significant social incidents in mining for investigation. By understanding unwanted, unplanned and unforeseen events and occurrences, companies are in a better position to avoid harm to people and the environment.

Investigation of social incidents in mining is also driven by the need to maintain access to land and other natural resources, meet corporate aspirations for social acceptance, and uphold commitments to 'respect' human rights. The concept of 'human rights due diligence', which is embedded in the United Nations Guiding Principles on Business and Human Rights (UNGPs), requires companies to work to predict adverse human rights impacts, and to track and test whether impact management is effective.[3] This means that companies should be prepared to examine failure as willingly as they celebrate success.

A range of other international frameworks encourage retrospective analysis of company decisions and actions that have adverse effects on people. Retrospective analysis is a basic tenet of ISO management systems, which are used at many mine sites around the world. Likewise, the International Finance Corporation (IFC) and the International Council on Mining and Metal (ICMM) both require evidence-based processes of monitoring, learning and investigation, as do an increasing number of laws in home and host mining jurisdictions.[4]

What are social incidents?

For the purposes of this concept note, a 'social incident' is defined as an event or an occurrence that arises either from:

- The actions of stakeholder groups (particularly local communities) that could adversely affect mining projects, or
- The actions of mining companies that could adversely affect stakeholder groups.

Social risk is a related concept to social incidents. 'Risk' incorporates degrees of uncertainty and probability relating to future

[3] United Nations Human Rights Council (2011) 'UN Guiding Principles on Business and Human Rights'. Accessed 9 November 2018 at: https://www.business-humanrights.org/en/un-guiding-principles.

[4] IFC (2012) 'Performance Standards on Environmental and Social Sustainability'. Washington, D.C: International Finance Corporation. Accessed 9 November 2018 at: https://www.ifc.org/performancestandards; ICMM (2012) 'Integrating human rights due diligence into corporate risk management processes'. London: International Council on Minerals and Mining. Accessed 9 November 2018 at: https://www.icmm.com/en-gb/publications/mining-and-communities/integrating-human-rights-due-diligence-into-corporate-risk-management-processes.

events, as opposed to incidents, which relate to events or occurrences that have happened. An incident can create risks, which may or may not eventuate.

The framing of social risks can influence the willingness of mining companies to screen in social incidents for investigation. For example, corporate risk processes generally treat incidents that pose a significant risk to the business as warranting investigation.

Grievance is another term that is related to social incidents. A grievance or a complaint can be raised in response to a social incident, or it may constitute a social incident in and of itself.

The terms 'inbound' and 'outbound' are used in this concept note to denote the direction in which consequences are likely to flow from social risks or incidents. An example of an *inbound* social incident is a protest that results in road blockages that delay the transport of ore to processing facilities or to a storage or transport facility. The protest has consequences that flow *inbound* to the project. These same protests may, in turn, have been driven by a previous incident in which community members were impacted by mining activities. In this case, the mine's actions had consequences that flowed *outbound* from the project.

A key point in this concept note is that a social incident can have both *inbound* and *outbound* components, and consequences that flow both ways.

Focus on incident screening and placement

This concept note focuses on incident screening, as a preliminary step in an incident investigation process. If an assessment team deems an incident to be significant enough to warrant further investigation, the incident is 'screened in'.

Once an incident is 'screened in', an assessment team would then move to a 'scoping' stage in which the parameters of the investigation are determined – including what questions are asked, who is to be interviewed, the level of methodological, evidentiary and reporting detail required, and the resources to be allocated to support the investigative process. An investigation would be carried out according to the parameters determined at the scoping stage.

We focus on screening because a social incident may not reach the scoping stage if it is not assigned an appropriate level of significance earlier in the process.

In our experience, many risk screening processes focus only on *inbound* social incidents, largely neglecting *outbound* consequences. When screening processes downplay the consequences from *outbound* social incidents, vital information and lines of inquiry are overlooked, and companies fail to examine and learn lessons from events or occurrences that adversely affect people and other local stakeholder groups.

The purpose of this concept note is to reinforce the importance of seeking and clarifying all available information at the screening stage. We observe that companies' social incident investigation processes – having been adapted from safety or security risk management mechanisms – are not always suited to screening in social incidents for significance.

This note describes a process to support screening processes, which we refer to as 'placement'. The purpose of 'placing' an incident is to ensure that site assessment teams consider multiple dimensions of a social incident prior to assigning significance.

Questions raised during *placement* include:

- Where, within the mining project's area of interest, has the incident manifested?
- What is the history of management controls for this incident?
- Is the incident related to other risks, issues or incidents previously captured in the company's risk management system?
- Have the actions of all relevant internal and external stakeholders been considered?

- Based on best available knowledge and use of management controls, what is the next iteration of this incident most likely to be?

A schematic is proposed to assist assessment teams *place* operational-level incidents within their context.

The schematic aims to sensitise assessors and investigators to considerations that might influence the significance ascribed to an incident at the screening stage.

The schematic is not proposed for the purposes of replacing existing approaches to incident investigation.

Structure of the concept note

The following Section 2 describes key findings from our engagement with company policies relating to social risk, assessment, grievance handling, and incident investigation. Section 3 presents the schematic mentioned above, which assists assessment teams to *place* incidents in context during the incident screening process. Section 4 concludes the concept note, raising questions for further discussion and noting key available resources.

2. Current investigation processes

CSRM has engaged with a broad range of corporate policies and procedures relating to incident investigation, social risk assessment, and grievance management from a range of global mining companies. In these engagements, we have sought to establish how companies:

- Define social risk in the context of their operations.
- Categorise actual and potential social incidents.
- Assign significance to incidents, issues and risks using their screening processes.
- Develop the scope of investigations or other remedial actions.

We observe that current industry processes for investigating social incidents (and assessing social risks generally) require improvement.

Tendency to neglect outbound incidents

Most companies do not have clearly defined procedures to screen, scope, investigate or review social incidents at the operational level. Procedures are usually based on environmental, safety or security risk assessment mechanisms, with minor adaptations.

Generally, screening processes do not differentiate between risks to project (which result in *inbound* incidents) from risks to people (resulting in *outbound* incidents). The phrases 'risk to project' and 'risk to people' describe *inbound* and *outbound* risk.

In practice, it is important to ensure that neither 'project' nor 'people' are treated as homogenous. A risk may affect one part of a business more than other parts, or one segment of a community more than others.

A lack of differentiation between risks to people and risks to projects means that incident assessment and investigation processes typically orientate towards *inbound* incidents. These processes assign higher levels of significance to issues, risks and incidents that are likely to impact on mining operations. Unless an *outbound* incident clearly creates *inbound* risks to the project, there is a tendency to 'screen out' *outbound* incidents from investigation and early action.

One outcome of this 'inside-the-fence'[5] thinking is that the significance of an incident situated 'outside-the-fence' can be severely underestimated. Incidents that do arise may not be recognised, or registered, as requiring the level of attention that they warrant.

Another consequence is that, in the risk screening process, interactions between risks can be overlooked. This can be because the history of risk interactions are not available through a company's control and management system. Antecedents – the vital 'backstory' – of events and risk interactions are not considered when ascribing the level of significance.

[5] Kemp et al. describe the tendency to focus on inbound incidents as 'inside-the-fence' thinking, because the incident is situated beyond the physical and conceptual boundaries of the project: Kemp, D., Owen, J., and Harris, J. (2018) 'Social Incident Investigation in Mining: Thinking Outside the Fence'. In: Clifford, M.J., Perrons, R.K., Ali, S.H., and Grice, T.A., *Extracting Innovations: Mining, Energy, and Technological Change in the Digital Age*. Boca Raton FL: CRC Press.

Implications for human rights and other corporate responsibilities

Since social incidents are mostly experienced by stakeholders external to the mine – and local communities in particular – a failure to adequately investigate social incidents could represent a failure to uphold the UNGPs or other commitments to corporate social responsibility. Failure to build an adequate system of screening, assessing and managing risks to people can itself constitute a failure to uphold the abovementioned commitments. In other words, companies can only claim to 'respect' human rights if they have adequate processes to assess human rights risk and investigate social incidents, and if they in fact respond to the lessons learned from such processes.

All the procedures we reviewed recognised human rights risks as having high to extreme levels of consequence for the company, rather than the community. The problem here is not the value placed on human rights – the problem is that social incidents can easily be overlooked if human rights risk is narrowly construed to emphasise risks to the company and its reputation.

3. A schematic for placing social incidents

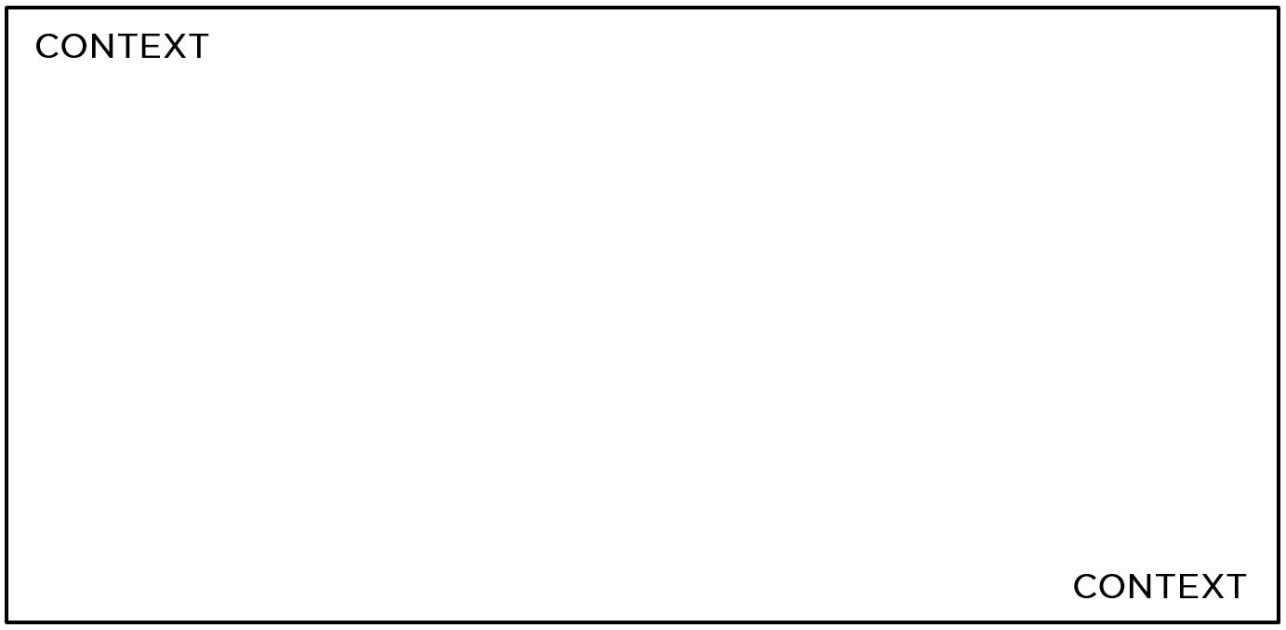
To synthesise the above discussion: companies are more likely to investigate incidents that are categorised as significant during a screening process. At present, screening processes are often blind to *outbound* incidents and risks. *Outbound* risks are not always *placed* within their respective context, which can affect the prioritisation of an incident during screening.

The schematic described in this section is a tool for assessment teams to *place* social incidents and improve their screening process. It provides a clear framework for engaging the problems described above in a deliberate manner. It is intended for use by assessment teams facing site-based incidents to ensure that the process of screening considers key factors associated with unwanted events and occurrences.

The schematic does not prescribe an investigation methodology; rather, it encourages the consideration of multiple aspects of a social incident as a prelude to assigning significance, and scoping an investigative process. With its clear lines and categories, the schematic may appears to be simplistic in form, but it is not simplistic in function.

Constructing the schematic

The schematic is built using four layers, described and depicted progressively in the pages that follow.



Layer 1: Establish the pre-existing and current social and political context

The first layer of the schematic prompts the assessment team to establish the pre-existing and current social and political context in which an incident has occurred. Ideally, a company would already be maintaining contextual information (e.g. by obtaining and updating social mapping, baseline and other information).

Further information-gathering specific to an incident will likely be required, including:

- Who the key stakeholders are, and their values and interests.
- Stakeholders' relationships with each other and with the mine.
- The history of stakeholders' interactions with each other and with the mine, including the degree of trust and/or conflict involved.
- How any of the above has changed, is changing, and will likely change.

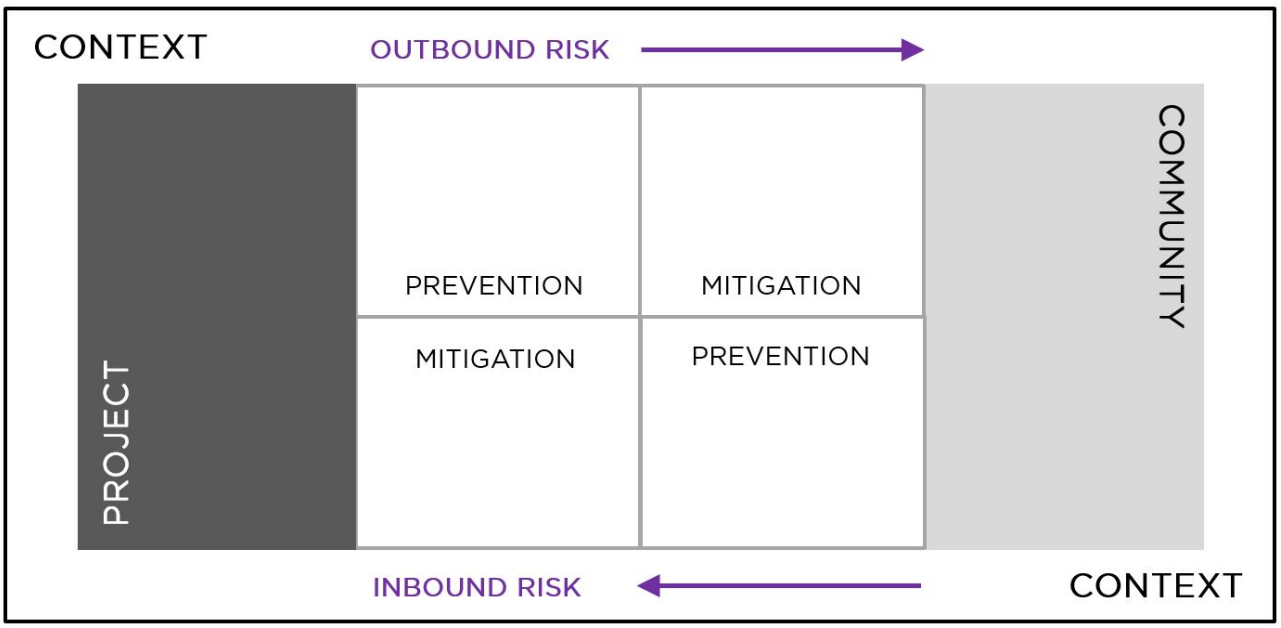
Understanding context is critical to formulating an explanation of how actions, occurrences and events transpired, and ascertaining what meaning different stakeholders ascribe to different actions, occurrences and events. Context helps to build an understanding of why (and to what extent) an event is significant to different stakeholder groups, noting that what is trivial to one person or group of people may be profoundly important to another. For instance, the company may see an interaction as distant history (especially where the mine has changed operator/ownership), whereas community members may retain a sense of grievance over many years. Without adequate contextual information, the assessment team may miss important factors relating to the origins of grievances, issues and incidents.

Layer 2: Identify mining company and community as key actor groups

This layer places the project and community in context. Layer 2 shows that the project and community are part of the context, and that the context is broader than both of these two actors. An 'actor' is an individual, group of individuals, an organisation, or a part of an organisation that is involved in an incident. Although government agencies, civil society organisations, multi-lateral entities, and other organisations are actors, this schematic places them within the context, to focus attention on company-community interactions in the operational setting.

When considering this layer, assessment teams should seek to define precisely who within the community, and what parts of the project, are relevant. Not all segments of the community have the same interests, and an incident may affect community groups differently. Not all parts of a mining project will be affected in the same ways, and actions stemming from different parts of the project are not always consistent.

While it is not depicted in the schematic, we recognise the diversity that exists within these and other stakeholder groups, and that these groups are not mutually exclusive.



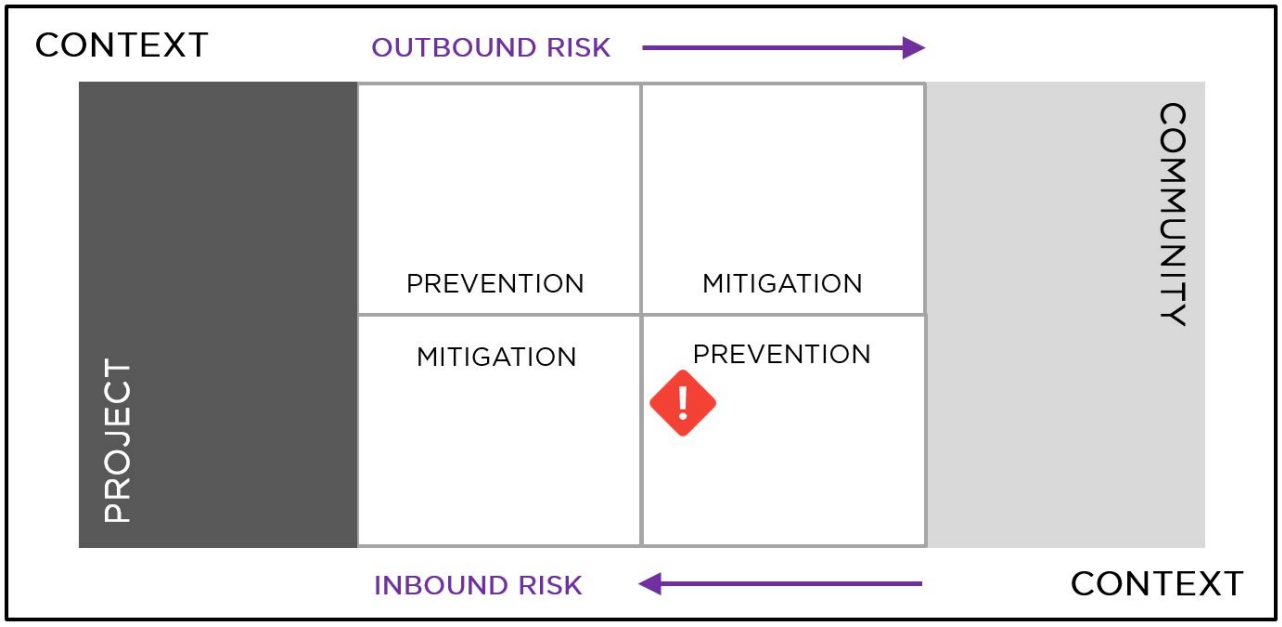
Layer 3: Interface with the company's management and control systems

The third layer emphasises the interaction between the incident and the area over which the company would usually exercise management and control systems.

Four quadrants are identified: a prevention and mitigation zone showing *inbound* and *outbound* consequences.

- Mitigation: The two mitigation quadrants represent an *immediate* risk – where an incident has significant and material consequences being experienced or imminent.
- Prevention: The two prevention quadrants represent an *extended* risk. In these situations, the company is aware of a risk, with an incident having occurred, but significant and material consequences have not yet manifested. The incident may have been identified through studies, monitoring, a grievance mechanism, or other tools for risk detection.

The utility of these quadrants for thinking through social incidents is demonstrated through examples in the next section.



Layer 4: Place the incident within the schematic

The primary value of placing incidents within this schematic is that it encourages assessment teams to consider the trajectory of an incident and its consequences more thoroughly.

Assessment teams are encouraged to think about how the incident relates to other factors, including prior knowledge of issues, incidents or risks. This *placement* forms the basis for considering previous risk or consequence levels, any hidden or 'sleeper'-type elements, and the possibility that new or previously excluded factors could be brought into frame.

Logic underpinning the schematic: summary

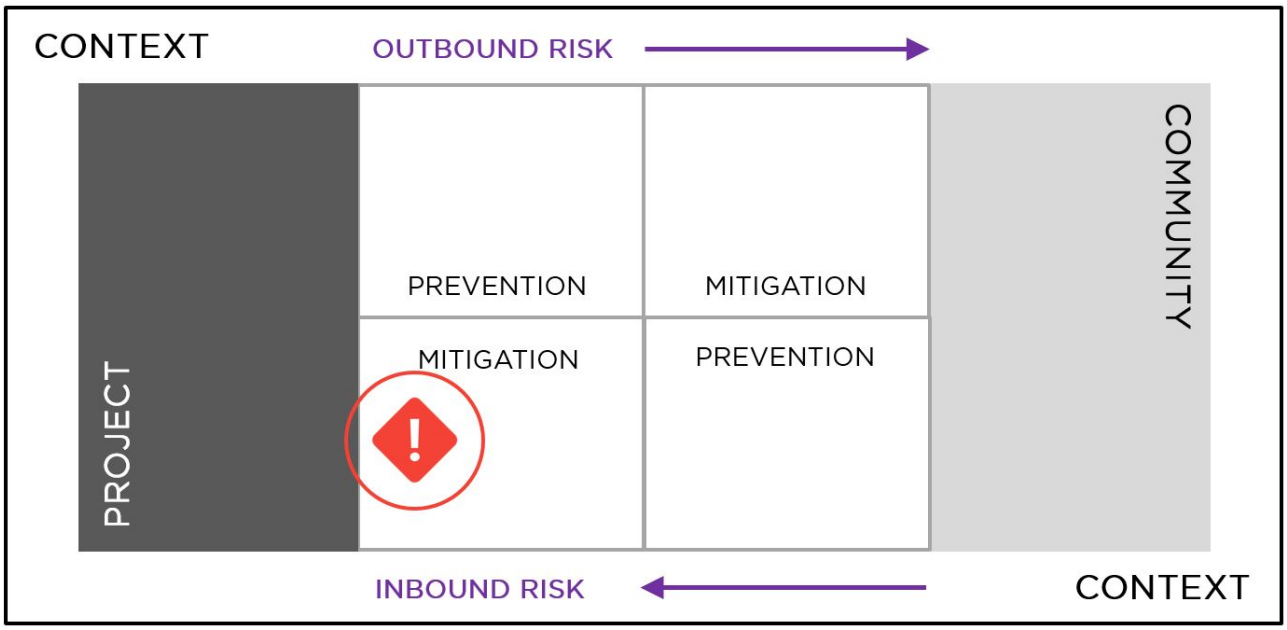
The schematic is premised on five key findings. Understanding these findings is critical to effective application of the schematic in screening an incident. These findings are touched upon in the explanation of the schematic's layers (above), and are summarised here to emphasise their importance.

1. How companies conceptualise incidents (before and after they have occurred) is greatly influenced by what companies consider to be a risk. A conception of risk that accounts for social and political context, and for *inbound* and *outbound* risks, is essential.
2. Social risks are not static. Over time, they may change in significance (higher or lower) or their direction (*inbound* or *outbound*). The nature of their significance (why they are a high or low risk) may change. They may split into multiple separate risks, or some risks may converge. *Placement* of incidents on the schematic involves considering both the past as well as future risk trajectories.
3. Most social risks of interest to mining companies will occur in the company-community interface – that is, where mining activities or staff interact with or affect local community members. Risks may not always originate within this interface, but they do tend to arise from this set of interactions.
4. The operating context is broader than the company and the host community. Context can extend past the company's interest in the area, but may still influence the relationship between company and community (e.g. where a project's previous operator was in conflict with certain community members).
5. Incident investigation should form part of a company's on-going social and human rights due diligence activities. To able to respond dynamically to risks as they evolve, incident investigation needs to be firmly embedded in operational procedures, rather than applied reactively when an incident occurs.

Applying the schematic to dynamic incidents

The following pages provide four examples of how the schematic can be used to *place* incidents during a screening process. These are conceptual examples to generate discussion and re-orientate thinking.

The first example presents a simple risk placement where the incident being assessed (circled in red) is placed on the schematic. Example 2 demonstrates risk placement where a future consequence trajectory is considered. Example 3 extends the previous example by considering the 'backstory'. Example 4 presents a complex incident involving escalation and consequences for multiple parties.



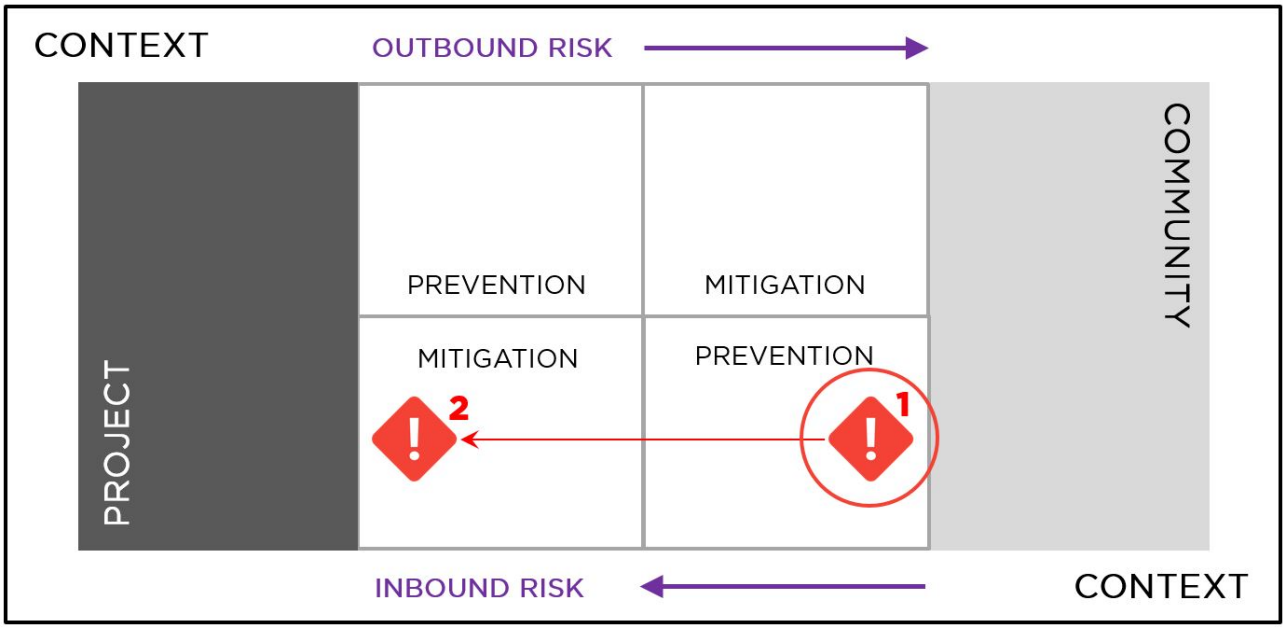
Example 1: A 'simple' inbound risk

In Example 1, the incident presents as an *inbound* risk. The company experiences the immediate material consequences of the incident, and is focused on mitigating consequences for the business.

The focus of questions, when incidents are placed in this zone tends to focus on:

- How has this incident affected operations? (Consequences to the operation).
- How did this incident arise, and what consequences are foreseeable for the operation? (Immediate event trajectory and impact on the project).
- Who can provide further information to prevent escalation? (Parties directly involved in the incident, or who can influence immediate consequences).

Consideration of these factors indicates that risks are restricted to this quadrant only.

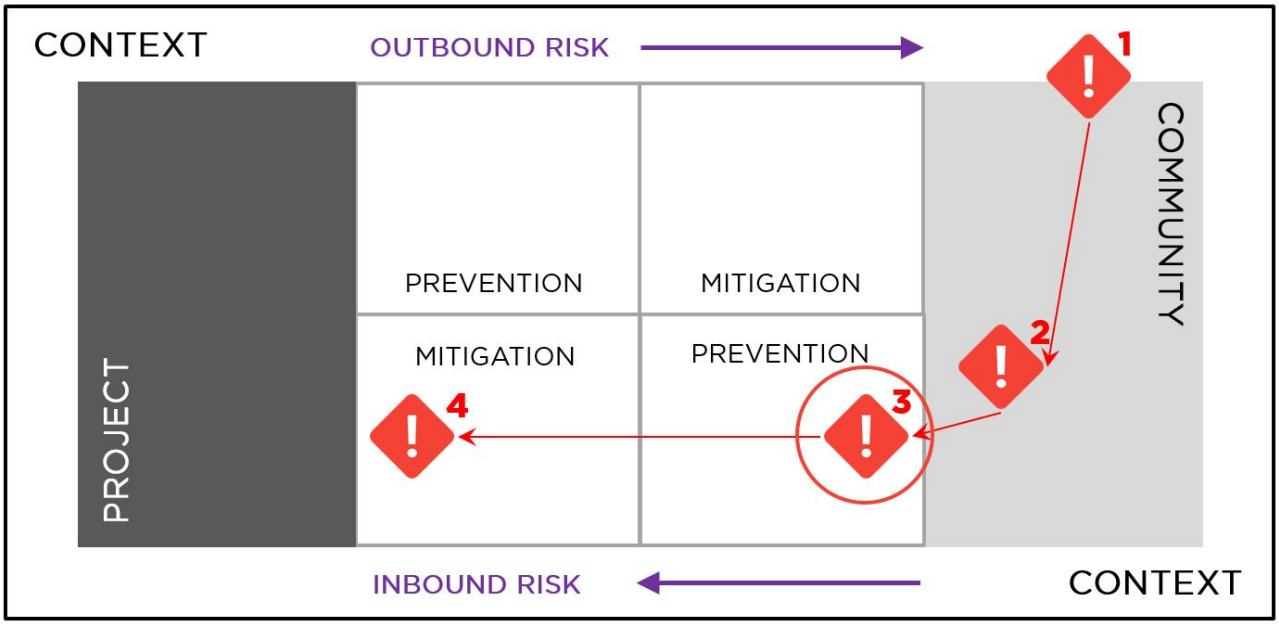


Example 2: Extended inbound risk

In Example 2, the company becomes aware of an incident (node 1 on the schematic), but has not yet experienced significant, material consequences. The incident may have been identified through existing management and control systems (e.g. routine social monitoring, grievance mechanism, or stakeholder engagement).

Risk placement using the schematic can also identify the potential for future incidents that may have consequences to the project (node 2). If the original incident is not assessed and addressed, risks affecting the project could manifest (node 2).

This analysis confines thinking to these two quadrants only. This approach does not take up the opportunity to learn about the profile of the incident. By only considering *inbound* dimensions of this incident, the assessment team has not considered the 'backstory') of the incident, including whether operational activities attributable to the incident and its development are significant and worthy of investigation.



Example 3: Extended inbound risk with origins in context

In Example 3, the assessment team extends the range of factors to include community-level drivers and interests from actors within the broader context.

The trajectory presented in this example shows an external party leveraging a community's proximity or relationship to the mine in order to achieve its own aims. In doing so, the risk originates from within the context (interest of the external party – node 1) and travels to the community (node 2). This represents the 'backstory' to the incident that is the focus of the screening assessment.

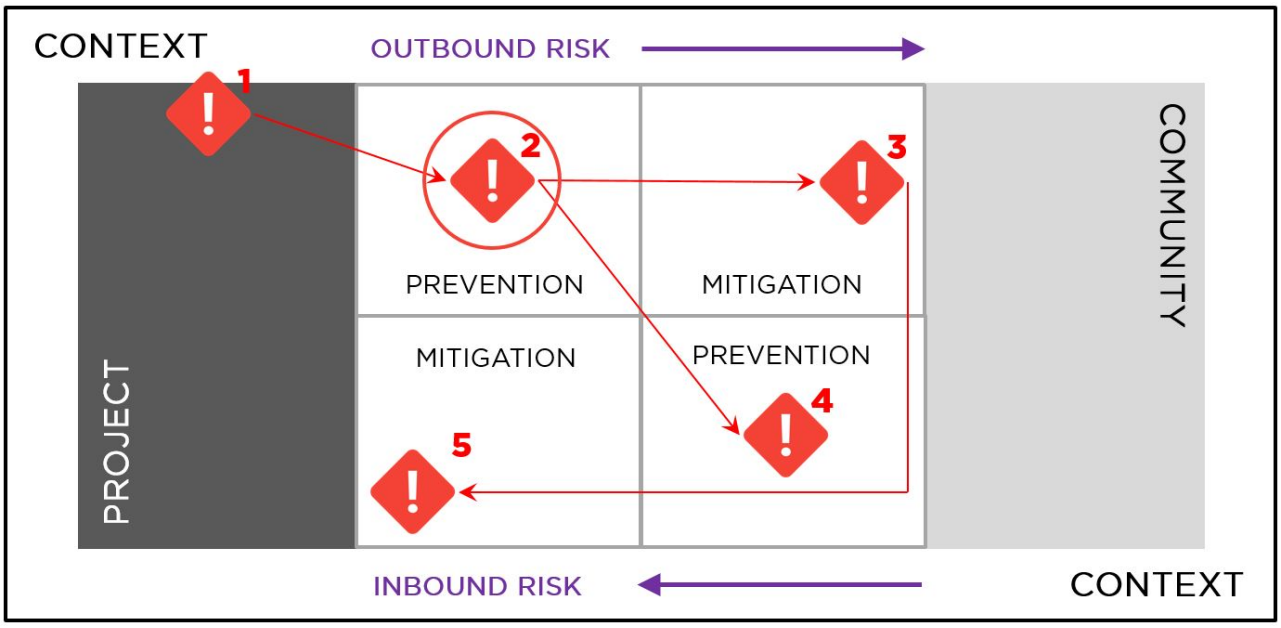
The company has not experienced material consequences (node 3). Potential consequences are subject to mitigation measures (node 4). The advantage with this application is that the backstory is considered in the screening process, and in considering preventative and mitigation measures to reduce business risk.

Alternatively, this example could relate to a situation where the community has had a grievance with a third party (nodes 1 and 2). The community may seek to induce the company to act on its behalf, by leveraging the company's need for operational consent (e.g., to provide continuing operational access). In doing so, the company is being drawn into the dispute between the community and third party (node 3), and may experience material consequences (node 4).

The arrows suggest a sequence of cause and effect. In practice, any of the nodes could constitute an incident to investigate. Moving *against* the arrow represents an endeavour to consider causes, rather than forecasting consequences.

For example, the company may only become aware of the incident when it experiences material consequences. In this instance, placement would locate the incident at node 4, and the assessment team would trace its pathway backwards. Alternatively, the assessment team might become aware of an incident in the community at node 2. It could forecast the *inbound* risks (nodes 3 and 4), while tracing the incident back to node 1.

If this incident was 'screened in' for investigation, analysis could focus on understanding points of leverage between the external party and the community (interaction between nodes 1 and 2).



Example 4: Outbound risk escalates and diverges

Example 4 represents a dynamic and more complex incident pattern. A scenario of this kind may arise where legacy issues are present. In this example, a pre-existing legacy issue is considered a contextual factor (node 1).

This example shows how a risk or incident trajectory can split across multiple pathways. For instance, a significant grievance may be voiced by a segment of the community before significant consequences are experienced by the community (node 2). If grievances escalate, the schematic could show a movement from node 2 to node 4.

Alternatively, a grievance may be voiced by community members after consequences to community have begun to manifest (node 3). The grievance may lead to community action (e.g. protests) that have immediate *inbound* consequences to the company, requiring mitigation (node 4).

Following the arrows forward would assist the assessment team in forecasting risks that have yet to occur, the significance of the risk, and the merits of investigation.

Following the arrows backward would provide insights into prior factors.

In our experience, assessment teams often fail to "screen in" serious grievances for investigation where (at the time of screening) no clear evidence of risk to the project (node 5).

4. Next steps

The schematic can be used by site-based teams for application in their risk and incident screening processes. Key questions to consider:

1. Has the screening process been applied *prior* to assigning significance to the incident?
2. Has the history of the incident been considered?
3. Have all of these factors been considerd in the screening process: incident context, actors, interface and placement?
4. Has the issue of risk 'directionality' been considered from both *inbound* and *outbound* perspectives?
5. Other than risk to production and project, what issues were considered when screening this incident for further investigation?

5. Related work by CSRM

Improving the mining industry's approach to social risk and social incident investigation is a continuing focus of CSRM. This concept note builds on other work, including:

- **Social incident investigation in mining: thinking outside the fence** – a book chapter by Deanna Kemp, John R. Owen and Jill Harris (2018).
- **Social performance gaps in the global mining industry – a position paper for executives** by Deanna Kemp and John R. Owen (2018) [weblink].
- **Grievance handling at a foreign-owned mine in Southeast Asia** – a journal article by Deanna Kemp and John R. Owen (2017) [weblink – paywall].
- **Differentiated social risk: rebound dynamics and sustainability performance in mining** – a journal article by Deanna Kemp, Sandy Worden and John R. Owen (2016) [weblink – paywall].
- **Just relations and company-community conflict in mining** – a journal article by Deanna Kemp, John R. Owen, Nora Gotzmann, and Carol J. Bond (2011) [weblink – paywall].
- **Mining industry perspectives on handling community grievances, summary and analysis of industry interviews** – a research report by Deanna Kemp and Carol J. Bond (2009) [weblink].
- **Community complaints and grievance mechanisms and the Australian minerals industry** – a discussion paper by Deanna Kemp and Nora Gotzmann (2009) [weblink].

This selected bibliography highlights CSRM's sustained interest in this area, and provides opportunities for engagement with the Centre's work.

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