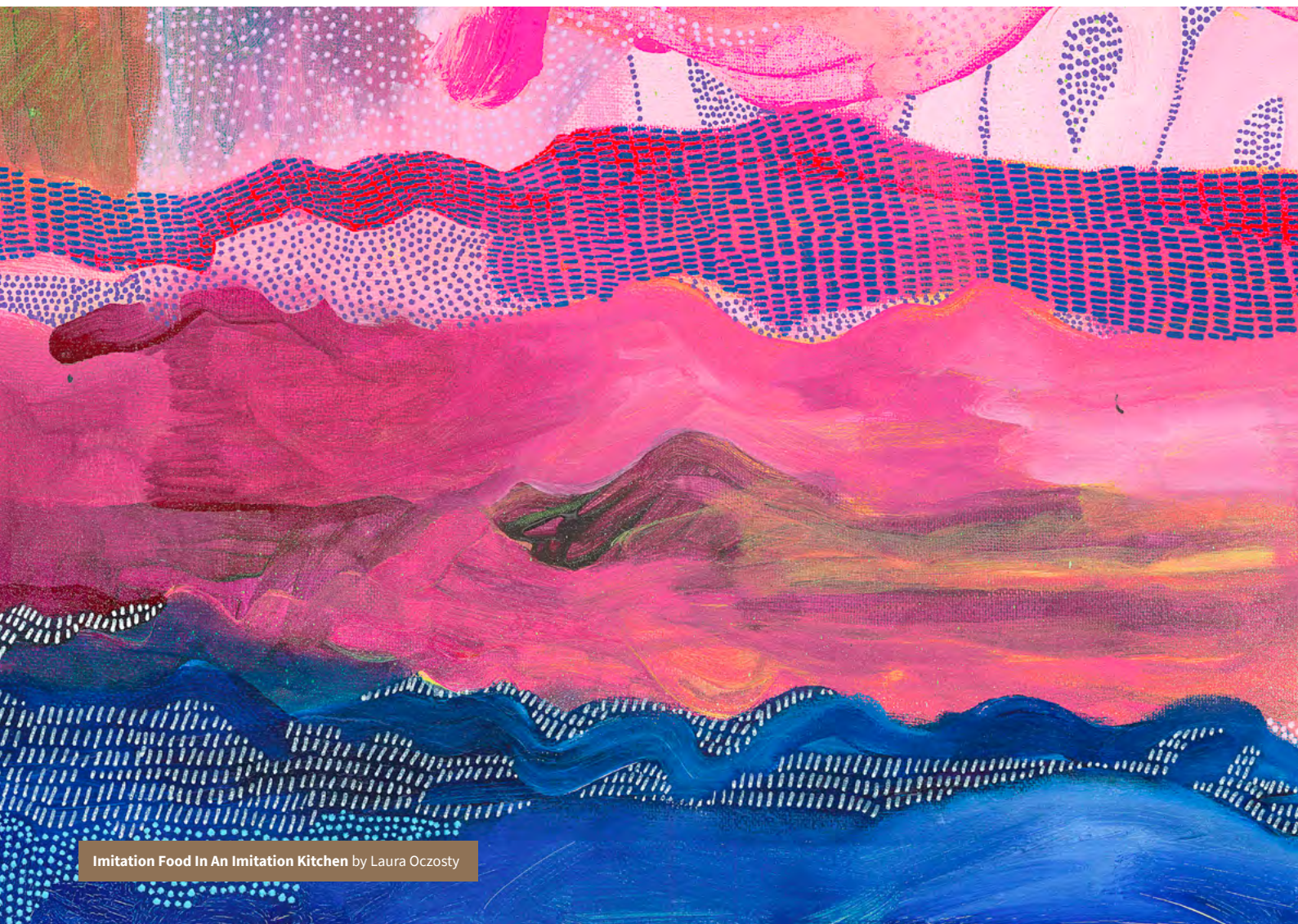


IT'S PUBLIC

KWM M&A INSIGHTS | NOVEMBER 2025



BRICKWORKS AND SOUL PATTS: UNDERNEATH THE ‘TOP-HAT’

KWM PODCASTS



In this episode of ‘It’s Public’, host Daniel Natale speaks with M&A specialists David Friedlander, Rob Kelly and Jennifer Cheung about the landmark 2025 merger between Washington H. Soul Pattinson & Co. (Soul Patts) and Brickworks Limited (Brickworks).

KWM advised on the transaction, which unwound Australia’s longest-standing cross-shareholding and transformed the nation’s second-oldest listed company into a \$14 billion diversified investment house.

David Friedlander sets the scene, outlining how the cross-shareholding - established in 1969 as a defence against hostile takeovers - endured for more than five decades despite criticism for limiting transparency and shareholder value. After several failed attempts to dismantle it, the two companies finally agreed to unwind the structure in 2025, with full shareholder approval.

Jennifer Cheung explains how an innovative ‘top hat’ structure was used, which involved the creation of a newly capitalised holding company that issued shares to both sets of shareholders.

Rob Kelly then delves \$1.4 billion capital raising that supported the merger, which was unusual for occurring before the deal’s announcement and at nil discount to the prevailing share price. He then draws parallels with the 2023 Allkem/Livent top-hat merger.

Finally, the discussion turns to the broader regulatory context. The team considers how the current ASX Listing Rules consultation on shareholder approval requirements could pave the way for more transactions of this kind.

The transcript below has been edited for brevity and clarity. You can listen to the full conversation via KWM’s podcast channels on Apple and Spotify.

Download the podcast here



Daniel Natale: Hello and welcome to ‘It’s Public’, your source for public M&A and market insights. I’m joined today by KWM Chair David Friedlander, Partner Rob Kelly and Special Counsel Jennifer Cheung. In this episode, we’re discussing the landmark Brickworks/ Soul Patts merger, which transformed Australia’s second-oldest listed company into a \$14 billion diversified investment house.

This was a unique deal - it unwound Australia’s longest-standing cross-shareholding, between two companies whose relationship dates back over 60 years, and it was executed through an innovative ‘top-hat’ structure requiring approval by two sets of shareholders. To our knowledge, this is the first time that’s happened between two Australian companies.

Jennifer Cheung: We’re unpacking a deal that ended more than half a century of cross-ownership between Brickworks and Soul Patts - the last surviving relic of the pre-Corporations Act era. We’ll start with the history, then move to the June 2025 merger announcement, the top-hat structure and \$1.4 billion capital raising and finally compare it to the Allkem/Livent deal and the current ASX Listing Rules consultation.

Daniel Natale: Dave, you’ve been involved with Brickworks for a long time — can you give us the history?

David Friedlander: What’s interesting is that the cross-shareholding was the last one still in existence. It had been in place since 1969, with both companies once holding more than 40% of the other. It was originally intended to provide stability and defend against hostile takeovers, but over time critics argued it suppressed transparency and shareholder value.

There were various challenges - in 1990, Ron Brierley’s Guinness Peat tried to dismantle it, and in 2010 there was an activist attempt to unwind it, but the Federal Court found the structure wasn’t unfair. Then, in 2025, the stars aligned, and both companies decided the time was right. They put it to shareholders and received approval from both sides to collapse the cross-shareholding.

Rob Kelly: And just to add, the structure was allowed to persist because it was grandfathered under section 259D of the Corporations Act. It wouldn’t be permitted today, but it was legal because of that exemption.

Daniel Natale: Thanks, Dave and Rob. Jen, can you take us through the deal itself and why it was so unique?

Jennifer Cheung: Sure. On 2 June 2025, the parties announced a \$14 billion merger via a binding combination deed. The deal used a top-hat structure - a newly capitalised holding company ('TopCo') issued shares to both sets of shareholders: one TopCo share per Soul Patts share, and 0.82 TopCo shares per Brickworks share, implying a 10% premium.

The rationale was to enhance scale, obtain operational efficiencies and improve liquidity - but the key driver was the removal of the cross-shareholding, which had long been seen as a drag on value. The market's response was overwhelmingly positive - both share prices rose after announcement, and the combined group's market cap today is about \$14.4 billion.

Daniel Natale: Rob, another fascinating aspect was the capital raising. How did that play out and why was it so unique?

Rob Kelly: TopCo undertook a \$1.4 billion capital raising to support the merger and strengthen the balance sheet. That's a big number, but what really set it apart was the structure. Usually, capital raisings occur at announcement and at a discount to the bidders prevailing share price, but here, TopCo was unlisted at the time and the raising was done at nil discount to the prevailing Soul Patts price.

Institutional investors essentially backed the deal before it was implemented, signing up on long-dated settlement terms (up to nine months out). While it was thought that some inventive structuring would be needed to raise the full amount, the market response so overwhelmingly positive that the entire \$1.4 billion was raised through placement arrangements in just over a month after the announcement.

Daniel Natale: It shows that it is possible, with the right deals between strategics, to find common ground on scrip-for-scrip transactions and that capital markets are open and willing to support good deals. Rob, you mentioned Allkem/Livent earlier - how does that compare?

Rob Kelly: Both deals used a top-hat structure. In the 2023 Allkem/Livent merger, which we acted on, the two companies created a new entity that acquired both Allkem (an Australian company, who KWM acted) and Livent (a Delaware company). The key difference is that Brickworks and Soul Patts were both Australian and ASX-listed, making this the first time (to our knowledge) that two ASX-listed companies have combined under a new ASX-listed entity.

Daniel Natale: Given the ASX's consultation on shareholder approval thresholds, we might start seeing more of these deals. Jen, what's changing there?

Jennifer Cheung: ASX released its public consultation on 20 October, proposing to lower the threshold for scrip-for-scrip transactions from 100% to 25%. This means listed bidders will need shareholder approval if they issue 25% or more of their stock in a public deal. The rationale for this is to balance investor protection with market efficiency, and it's likely influenced by recent high-profile transactions, including James Hardie's acquisition of AZEK.

David Friedlander: There are differing views on whether this is a good development, but whatever your view, what's clear is that it's possible to execute complex mergers with approval from both sides. Our work on both Brickworks and Allkem/Livent has really proven that.

Daniel Natale: Before we wrap up - one key takeaway each?

David Friedlander: For me, it's the history. The Millner family has been at the centre of this story for generations. Someone needs to write a book.

Jennifer Cheung: The novelty of the deal. It's the first top-hat between two Australian companies and the first involving such a large capital raising by an unlisted entity. It shows how the market is willing to back the right deal.

Rob Kelly: I echo that. It highlights how adaptable the market can be. Things are changing so quickly at the moment - the ASX consultation shows that even fundamental frameworks are being reconsidered - but ultimately when you have a compelling story in strategic M&A, you can find a way at the right time and the right price.

Daniel Natale: Thanks Dave, Rob and Jen for joining me for such an interesting and thought-provoking podcast.





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