8

Futurescapes of planning law: Some preliminary thoughts on a timely encounter

Elen Stokes*

Introduction

It is uncontroversial to say that land use planning is a temporal field, concerned as it is with issues of sustainability, change, conservation, growth, regeneration and 'the possibilities that time offers space'.[1] Equally uncontroversial is the suggestion that planning involves a particular orientation to the future and that, even if it falls short of expectations, it is motivated by 'a belief that action now can shape future potentialities'.[2] Planning is variously described as a form of 'persuasive storytelling about the future',[3] as 'anticipatory',[4] and as 'the specification of a proposed future coupled with systemic intervention and/or regulation in order to achieve that future'.[5] Both as an ideal and as a practice, planning is future-bound.[6] Yet while the relationship between planning and the future has long been accepted as foundational, and has proved fertile ground for critical scholars in land use management and planning theory, there has been little express consideration in this context of the part played by law.

My aim in this chapter is to give planning law, and law generally, a greater prominence in research on the future. Modern futures studies began life as an applied science aimed at developing computational tools for forecasting and prediction. It has since grown in disciplinary scope and gained a sharper critical edge in the social sciences and humanities, setting new agendas for engaging with the future not as a fixed object 'out there' to be measured, managed and moved into, but instead as a continuous process, always in flux, not separate from but immanent in

the present. Pioneers in the field have accorded particular analytic significance to futures-in-the-making (rather than futures already 'made' through statistical modelling, for example),[7] and to the need for inventive ways of studying the empirically elusive realm of the not-yet.[8] This has been taken in several directions, opening up new avenues of inquiry into anthropologies of the future,[9] geographies of the future,[10] futurescapes of urban regeneration,[11] speculative research methods,[12] and sociotechnical imaginaries.[13] Those are just a few areas where explicit efforts have been made to build a fuller picture of what specific imaginations of the future 'do' – how they configure power relations, serve ideological goals, and determine which/whose futures are deemed possible, plausible, probable and preferable – in the here and now.

This type of research has not been pursued, at least not directly or systematically, in legal scholarship, despite the future's pervasiveness in all aspects of legal process and doctrine. The future's inescapability and diffuseness are the very features, however, that seem to have contributed to the lack of targeted legal engagement. Although there are notable exceptions, the future has generally been subservient to other related frames and issues in the study of law – such as sustainable development, risk, and intergenerational justice – meaning that futurity has been poorly tended as a *legal* problem. This is true of planning law, the most self-evidently future-oriented of all the legal fields. The purpose here, then, is to offer a means of foregrounding the future-making practices of planning law, so that closer attention may be paid to the various ways in which planning law imagines and regularises certain futures and future possibilities.

A 'futurescapes' framework adapted from the work of social theorist Barbara Adam brings a heightened sensitivity to the traces of futurity in law, and to the futures rendered meaningful in distinctively legal ways. One of the important qualities of the relationship between planning law and the future is that it can appear fixed and inert, and not up for debate. Yet that obscures the difference that law makes in actively producing the future rather than just passively encountering it. An advantage of a futurescapes approach is that it can be used to examine legal future-making in terms of specific modes – for example, the timeframes, temporalities, tempos, timings and time sequences of planning law that shape how futures are anticipated and *'lived and felt* as inevitable'.[14] The approach also helps to illustrate that while planning law is always 'futural', it is not uniformly or consistently so. The relationship is dynamic and manifests itself in many ways, through different combinations of temporal structures and processes, and this is fundamental to the effects

that law is able to achieve in the present. To begin to address these issues, the chapter draws on two specific aspects of English planning law that apply to the onshore exploration and development of unconventional oil and gas: the application of local development plans; and the Secretary of State's statutory powers to call-in planning applications and recover planning appeals.

About time: futures theory and law

Law is sometimes depicted as the ultimate custodian or venerator of the past,[15] especially in common law jurisdictions where the invocation of precedent 'perpetually reclaims the past for the present'.[16] Examples of law's path dependence, status quo bias and respect for tradition, for example, have tended to feed overgeneralised claims, however, that law is innately past-oriented. So much so that it can be difficult to avoid resorting to platitudes about law being backward-looking, nostalgic even, and too slow to keep pace with social transformation.[17] I too have used such caricatures in my research and teaching, because even though they leave little room for complexity, they have at least a ring of truth. Ask any law student to describe the discipline, and it is unlikely that they would respond with 'progressive', 'innovative' or 'modern'. Still, these ideas are in danger of overestimating the importance of the past in law.[18] One consequence of the prominence of historical time is that the problem of the future tends to have been overlooked.[19]

Any notion that law's relationship with time is lodged only in history has been comprehensively dispelled by a significant and insightful body of work in socio-legal and critical legal studies, which has brought a new level of precision to the field, detailing the varying temporalities that contemporary legal systems and techniques use or construct.[20] The scholarship has done much to broaden the focus beyond historical context by illuminating the diversity of ways in which law discursively and practically shapes what we interpret and experience as time. It goes against the commonly held and often tacit view that law and time are analytically distinct, providing original concrete analyses of them as mutually dependent entities that interact and shape each other. Whereas legal scholars, like social theorists generally, have tended to treat questions of law separately from those of time, the recent line of work focuses on their interconnections and shows how we gain explanatory power by thinking of legal processes, institutions and doctrine as fundamentally temporalised.[21] Law is full of temporal structures – for instance, it

determines when (for example sunset clauses), in what order (for example consultation and pre-decision matters), how quickly (for example determination deadlines) and for how long (for example injunctions, temporary stop notices) action can be taken.[22] Law also operates more subtly, though, to construct a particular sense of time, such as rhythm, intensity, potential and accentuation, in the moment. It is through the richer, more finely textured accounts of law's temporal dynamics that these felt-realities of time have come to be regarded as a form of legality.[23] Time is not just an object of legal intervention – it is also a mode of legal reasoning; a means of marshalling evidence, framing interactions and stabilising powerful normative frameworks; a medium through which social relations, values and meanings become embedded in legal and regulatory practices. Law's relationship with time is anything but uniform and one-directional.

Yet although the literature has made major conceptual inroads into the temporalities and temporalising effects of law, and prompted a much greater engagement with other disciplinary and interdisciplinary studies of time, there has been no sustained engagement, as there has been in other fields, with the future. There are some brilliant exceptions to this, for example the work of Emily Grabham on the futures conceived, and critically the futures excluded, under the UK's Gender Recognition Act 2004;[24] Annelise Riles on 'placeholders' for resolving ambiguity about the near future;[25] Renisa Mawani on the significance of certain, envisioned colonial futures to the claimed authority, sovereignty and legitimacy of British imperial law;[26] Sarah Keenan on title registration as a means of protecting the transcendental, future entitlement of white settler subjects to indigenous land;[27] Davina Cooper on prefigurative institutional action;[28] and Christos Boukalas on the emptying of futures and suppression of potential change in security and economic law and policy.[29] Still, these examples are not typical of the discipline overall and it is fair to say that legal scholarship generally has viewed the future in 'shreds and patches', so to speak.[30] This is in contrast to legal history, which has become its own sub-genre.

It would be a mistake, though, to regard legal *history* and legal *futurity* as direct opposites. As many works on temporality have shown, the present is always infused with both pasts and futures – with both 'experience' and 'expectation',[31] with both 'retentions' and 'protentions'.[32] The past, present and future cannot be disentangled because they are integral to each other. 'All our pasts,' says Dipesh Chakrabarty, 'are futural in orientation.'[33] In Nancy Munn's words: 'Ways of attending to the past also create modes of apprehending certain futures or of reconstructing a

particular sense of the past in the present that informs the treatment of "the future in the present".'[34] However self-contained the past, present and future might appear, the research reveals porousness and fluidity, opening the door to more processual understandings of temporality as a sphere of 'dynamic simultaneity'.[35] For Adam, 'There is no single time, only a multitude of times which interpenetrate and permeate our lives'.[36]

What this means is that the future, and its manifestations in the present, cannot be satisfactorily understood or explained in isolation from the multiple, intersecting historical trajectories that are also implicated in the framing of times yet to come. The treatment of the future as a simultaneous co-presence of temporal features is elaborated by Adam in her conceptualisation of 'timescapes',[37] and latterly 'futurescapes'.[38] The suffix 'scape' – as in landscape or cityscape – signals that thinking about time necessarily has implications for how we imagine space and spatial relations.[39] It has further significance because it says something about the approach to analysis, which is to see time as a domain that is always in formation, always incomplete and open to being re-formed. Adam explains that a landscape, and by extension a timescape, 'tells a story of immanent forces, of interdependent, contingent interactions that have given rise to its existence'.[40]

A futurescape is similarly conceived, though it reflects a deeper frustration over the lack of sociological tools and methods, and until relatively recently the lack of enthusiasm, for taking the social reality of futures seriously. Social scientists are well-equipped to study 'present-futures', that is, the realm of prediction, plans, promises, models, strategies and other rational instrumentalities for deciphering what the future 'will be'. By contrast, 'future-presents' are less amenable to empirical investigation by conventional means because they occupy 'the inaccessible, invisible, latent world of processes'.[41] A futurescapes perspective enables a more nuanced account of the future as a 'precarious achievement'[42] that is continually being made in everyday practices, not only through individual acts of projection but also through iterative, emergent processes that are 'imperceptible as events'[43] but nonetheless have future-making effects. Significantly, because the approach attends to *how* futures and their socio-political effects are achieved (rather than assuming their coherence or stability), it is open to diverse and often contradictory possibilities. Thus the futurescape is not simply a list of temporal features to be ticked off one-by-one. Instead, it describes a critical sensibility that invites us to question how the future animates the contemporary condition without reducing away its more elusive qualities. For example, the future may be encountered as a particular mood, feeling,

ambience or other collective affect that presses upon the present. Hence the terms 'futurescape' and 'futurity' are used not as academic-speak for 'the future' but to signify the actual diversity and messiness of temporal features that are often assumed to be straightforwardly accounted for.[44]

Futurescapes and other integrative approaches like it have been influential beyond their disciplinary origins,[45] but they have yet to find their way into the bulk of legal research.[46] Here, I want to suggest planning law as one possible entry point. There are already examples of critical engagement with futures in planning theory.[47] A logical next step is to ensure that planning rules and regulations figure more prominently in those debates to avoid the law being treated as an incidental issue or afterthought.

It is not a new problem that legal analysis can be weakly represented in or missing altogether from multidisciplinary spaces for social inquiry. That is certainly the case with futures studies, and it is also a claim made about the philosophical and theoretical foundations of planning. Patrick McAuslan began his seminal book *The Ideologies of Planning Law* with the observation that: 'Alone of all the disciplines involved in land use planning in the United Kingdom, law is considered to be, at least by its practitioners and publicists, in no need of a fundamental examination.'[48] More than 40 years on, it remains a motivating force for planning law scholarship. And so, one reason for encouraging critical reflection on planning law from a futures-perspective is that it arises out of a commitment among academics to chip away at planning law's reputation for being too technical, or worse, too mundane, to be of interest to theorists. There is something be gained from 'taking on the technicalities',[49] as Riles compellingly puts it, so that legal doctrine and argumentation may be reclaimed or rediscovered for theory.[50] In that spirit, connecting planning law and futures theory is not an occasion for lament, but rather an opportunity for exploring the possibilities that the two fields offer each other.

Finding futures in planning law

To illustrate how the approach just outlined could be put to use, I will draw on two different aspects of the English planning regime as applied to hydraulic fracturing, or 'fracking', for unconventional oil and gas such as shale gas. They are: the role of the statutory development plan in determining planning applications, and the scope of the Secretary of State's powers to call-in applications and recover appeals. Although the illustrations differ in their legal particularities, each addresses the future

not as a passive object of governance, but as an active form of legality that produces legal meaning and effect. The purpose is not to claim any generalisable findings, as that would be impossible from such a narrow base. Instead the example is intended to raise more questions, and by doing so, to start a conversation about the directions that this type of analysis could take.

The development of unconventional oil and gas, typically shale gas, provides an intensely futural context in which to ground the discussion, because it involves 'heroic' future narratives of technological innovation;[51] promises of a cleaner, cheaper and more secure energy supply;[52] fears about the short- and long-term consequences of the drilling technique itself and of prospective shale gas exploitation;[53] and framings of shale gas a key part of the UK's efforts to meet its 2050 emissions reduction target and interim carbon budgets,[54] and as a 'bridging fuel' to a greener future.[55] This is borne out in conflicts over the siting of shale gas operations, which expose the diverging ways in which participants in the planning process make sense of time. As Anna Szolucha demonstrates, the grant of planning permission for exploratory shale gas works at Preston New Road, Lancashire, invoked very different modes of time-reckoning – for example, an accelerated capitalist temporality built on the promise of a new future of progress and growth, compared with the temporal tactics adopted by protestors to slow down the construction and operation of the drilling site.[56]

Planning disputes can be especially revealing of the multiple and competing futures of any given place. It is more usual, however, to see disputes characterised as conflicts between localised 'not-in-my-backyard' politics and the broader public interest. No doubt, a critical source of disagreement in the planning and regulation of shale gas fracking has been the different scalar frames employed in defining the problem and proposing its resolution. Chris Hilson has carefully examined how certain scalar frames have come to dominate (for example the local risks of fracking weighed against the national need for energy supply) while other such frames have been repressed or filtered out of the system altogether (for example the global climate consequences of fossil fuel extraction).[57] In this sense, planning law serves as a 'funnel'[58] for arguments about which scales are most important for any given decision. But planning law also funnels and filters different temporal relations, including of course different orientations to, imaginations of and engagements with possible futures.

An obvious meeting point for planning law and the future is the statutory development plan. The drilling operations associated with fracking amount to 'development' and therefore require planning permission

from the local mineral planning authority.[59] It is a central tenet of the local planning regime that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.[60] As discussed in Chapter 2, the development plan is prepared by the local planning authority (LPA), and sets out a vision and a framework for development in the authority's area. The development plan must include policies on the LPA's strategic priorities,[61] and make 'sufficient provision'[62] for a number of key land uses, such as housing, community facilities, the conservation and enhancement of the natural, built and historic environment, and, importantly for current purposes, the provision of minerals and energy.

A question that has arisen in the determination of planning applications for fracking operations is how to apply development plans which include policies on mineral resources, but which make no specific provision for the development of shale gas. The issue in such circumstances is whether relevant policies in the development plan are to be regarded as 'absent', 'silent' (the terminology used in previous planning policy[63]) or 'out-of-date'.[64] If so, a weighted balance, commonly referred to as a 'tilted' balance (discussed in the context of housing by Carolyn Abbot and by Maria Lee in their chapters), applies, whereby permission should be granted unless protective policies in the National Planning Policy Framework (NPPF) provide a 'clear reason' for refusal, or the adverse impacts would 'significantly and demonstrably outweigh the benefits'.[65] This tilted approach seems both to sidestep the development plan and to require something more demanding than the standard balancing exercise to displace the presumption in favour of sustainable development.

Whether the tilted balance is triggered is a matter of planning judgment, not of legal reasoning, although the courts have clarified how the triggers operate. For example, a development plan that lacks policies *specifically* targeted at the type of development under consideration (such as fracking) is not automatically considered out-of-date (or absent or silent, as in previous policy), and provided the policies of the development plan are still 'relevant' to the decision to grant or refuse planning permission, the tilted balance will not apply.[66] Thus, in a decision on fracking, a development plan may be considered relevant where it includes policies on mineral resources and development management generally, which do not explicitly address shale gas or fracking but which nevertheless have a real role to play in the determination of the application.[67] Those general policies can be seen as offering a future-proof framework to deal with technological innovation not envisaged or planned at the time of their inception. For example, it has been noted

that 'although a local development document is intended to present as a coherent suite of policies, that objective is not inconsistent with the inclusion of some environmental policies being intended and designed to operate on a longer time scale than that which may be contemplated by the plan period'.[68]

There is a further point, which is that judgments over the relevance of a local development plan, including through its classification as in-date or out-of-date, shape how the future is ushered into the present. Such classificatory practices determine whether and with what consequence future risks and benefits are assessed against each other, through the application of either a standard or tilted balance. These different future-oriented logics operate with powerful performative force to organise how planning decisions are made and reasoned; they govern the 'knowledge moves'[69] entailed in determining the consistency or otherwise of a development with the plan; they set the threshold for tipping the balance against approval (for example whether adverse impacts 'significantly and demonstrably' outweigh, or just outweigh, the benefits); and they influence the forms of reasoning that decision-makers offer. In this regard, the future enters the present as an organising epistemology,[70] or 'epistemological ordering frame',[71] constraining or enabling certain ways of imagining, projecting and acting ahead of time. This opens up to investigation an array of questions about the contingent interpretive processes (for example 'relevance') and pragmatic steps (for example the engagement or disengagement of the 'presumption in favour') through which certain representations of the future are made effective. In particular, it shows the future not as a category of analysis so much as a category of practice, highlighting the need to account for the processes through which specific configurations of the future are assembled.[72]

It is these processual features of future-making – for instance, the sense-making practices and discursive resources relied upon in applying non-specific policies of a statutory local development plan to proposals for new technological developments – that a futurescapes approach takes as its starting point. The approach is less concerned with what we 'know' as the future, than with the work – in this context, the often-routine legal work – that goes into producing and sustaining particular ideas about the future in social and legal consciousness and practice. As the discussion so far has suggested, a concept as rudimentary as 'relevance' creates a particular temporal dynamic, in that the applicability of the tilted balance depends on the relationship between the proposed future development and pre-existing policies of the local plan. It offers at least a sense of the past, present and future as aspects of each other, rather than as

contrasting 'types' of time, which offers a promising broadening of the temporal features examinable in planning law.

Opening up planning law studies to broader conceptualisations of futurity raises the possibility that futures are envisioned, regularised and practised in a wider range of planning law provisions than has been appreciated. As a result, provisions which are not explicitly futural, or which are so routine and unremarkable that their futures-work goes without saying, become new contenders for analysis. Therefore, in order to take planning law seriously as a site of future-making, there is a case for focusing on the numerous less obvious ways that futures are anticipated and acted upon.

In that respect, a useful illustration is offered by the Secretary of State's statutory powers to call-in planning applications and recover planning appeals for her own determination, specifically in the context of shale gas operations involving fracking. The illustration is historical, given that the UK Government has now withdrawn its support for fracking, but it gives an idea of some of the avenues waiting to be explored in investigating how – by which legal mechanisms and temporal modes – planning law operates through futures that, by definition, may never actually happen. In Juliet Davis's words, planning histories 'are inescapably histories of futures'.[73] As will be shown, the Secretary of State's intervention in planning decisions has come to be understood predominantly in terms of jurisdictional scale, even though the administration and exercise of such ministerial power can also involve rather specific invocations and institutionalised practices of future-making. The discussion below begins to bring out some of the distinctive insights that a futurescapes perspective can offer legal analysis in this setting.

Supplementing scalar analyses with a futurescapes approach

The Secretary of State has various statutory powers to intervene in the planning process. They include default powers enabling the Secretary of State to prepare or revise a local development plan, if she considers that the LPA is failing properly to carry out its functions in that regard.[74] In respect of planning applications, the Secretary of State may give a direction restricting the grant of permission by an LPA, for a specified period or until the direction is lifted.[75] She may give a direction for a development to be treated as a project of national significance requiring a development consent order, as opposed to local planning permission.[76] She may issue guidance on matters such as the community infrastructure levy – a tax on development to fund the infrastructure it will rely on, which LPAs must

take into account in adopting the levy.[77] This is just to name a few of the devices that allow for ministerial involvement in local policy formulation and decision-making, and the list could go on. The existence of such powers reflects central government's historical importance in securing consistency in the execution of national planning policy at the local level, as well as its continued role in providing strategic direction, oversight and coordination across the planning system.[78] It explains why the planning system has been described as hierarchical,[79] because although LPAs operate with a degree of autonomy, that autonomy is restricted by parameters set centrally.

My focus here is on one aspect of central government intervention: the ability of the Secretary of State to exercise jurisdiction over individual decisions, by 'calling-in' planning applications[80] and 'recovering' planning appeals[81] for her own determination. It may seem odd to include this example at all, given that the powers of call-in and recovery are intended to be used only sparingly. In the vast majority of cases, planning applications are determined by the LPA, and appeals are determined by the Planning Inspectorate (PINS).[82] Even at their height, the overall proportions of called-in applications and appeals recovered by the Secretary of State have been small.[83] The data reveal a more complicated picture – for instance, ministerial intervention has a higher prevalence in respect of certain types of development (for example onshore wind turbines),[84] and likewise can fluctuate depending on the minister in charge.[85] An example of a called-in application can be seen in Abbot's chapter in this volume. Altogether, though, the incidence of call-in and recovery is low, and the Secretary of State's invocation of those powers has aroused little academic interest among both lawyers and planners, except as a general indication of the relationship between central and local government.

The reason that call-in and recovery are viewed in this manner – as a proxy for central-local relations – is that they raise questions about the appropriate balance of power in the planning process, and meet with strong criticism when the balance is felt to have tipped too much in the direction of central government.[86] This has intensified in recent years, following the passage of the Localism Act 2011 and repeated calls for call-in and recovery to be used only in exceptional circumstances, for cases involving significant national or wider than local issues.[87] Controversy surrounding ministerial intervention is seen as epitomising a deep tension in the scalar logics of planning, discussed in more detail in Lee's chapter, in particular the 'vertical topography of power'[88] and the difficulties of reconciling different spatial orders operating within the same

system – 'national', 'local', 'neighbourhood', 'grassroots'. Therefore, the Secretary of State's rights of call-in and recovery, when discussed at all, are treated as specific aspects of a broader debate about demarcations of space and scale.

Taken in the context of pathbreaking studies in geography and allied areas (such as legal geography and political ecology) on the scalar structuration of the state,[89] the call-in of planning applications and recovery of appeals can be understood as scalar practices that organise power relations between different layers of government. From that angle, it might be observed that there is nothing innate about a project's classification as a development of 'major importance' and 'more than local significance' – those designations are constructed; that is, they are conceptualised and made effective through routine bureaucratic practices (for example Written Ministerial Statements, planning guidance) and uses of discretionary authority (provided for by statute) to secure the legitimacy of 'top-down' state actions. Focusing on the separation and hierarchy between 'higher' and 'lower' scales of practice, and more precisely on the work that scale does as a politico-legal device, considerably enriches the analysis of contemporary practices of government. But there are other ways of approaching the matter, which can supplement spatial and scalar perspectives.

In particular, the powers of call-in and recovery may lend themselves, in as yet untested ways, to an analysis of the *futures* they envision and act upon. Call-in and recovery are not intuitively the most obvious example for thinking about how planning law operates through different future-orientations – that is a deliberate move on my part to show that non-obvious sites are also where futures take shape, in ways that may otherwise escape scrutiny.

Future-orientations of jurisdiction

To begin with, a futures-perspective may help to bring clarity to the ways in which the Secretary of State's statutory powers to determine planning applications and appeals can induce or amplify particular orientations towards the future. The focus here is on the future-orientations that give the jurisdiction its form, setting the conditions of possibility for the distribution of governing authority and the manner of its use. These future-orientations are an additional dimension of what might be described as the 'often hidden architectures . . . of discretion',[90] structuring the operations of law and imposing limits to legal order, yet kept out of the analytical frame because of the tendency in this context, and

more generally, to conceptualise jurisdiction in terms of administrative boundaries and the territorial allocation of authority between different levels of government.[91] The point is that the assertion of jurisdiction can also be viewed as an act of constructing, giving meaning to, and orienting towards futures that are perceived as inevitable and experienced as 'real', regardless of whether those futures actually come to pass.

Continuing with the example of shale gas operations involving fracking, a futurescapes approach – one that involves seeing the future not just as an outcome but also a process and an affective state – provides a useful addition to analyses of jurisdiction and power that are shaped onto the more conventional axis of scale. In September 2015, in a Written Ministerial Statement to Parliament, the Secretary of State for Communities and Local Government announced two temporary changes to the criteria for call-in and recovery. First, where an LPA was identified as 'underperforming' in respect of planning applications for onshore oil and gas, including shale gas, the Secretary of State would 'actively consider exercising the power under section 77 of the Town and Country Planning Act (TCPA) 1990 to call-in the applications'. Secondly, the recovery criteria were expanded so that the Secretary of State could give 'particular scrutiny' to appeals against refusals of planning permission for exploring and developing shale gas.[92] Such appeals would be 'treated as a priority for urgent resolution'.[93]

It is noteworthy that the amendments created separate and distinct criteria for shale gas projects, because such changes were not strictly necessary. The Secretary of State's prior discretion to call-in applications and recover appeals was already very wide, and arguably unspecific enough to encompass shale gas projects without any need for amendment. The general criteria list the sorts of situations where a decision may be called-in or recovered because it involves issues of 'more than local significance' – for instance, where the project gives rise to substantial regional or national controversy, or where it raises important or novel issues of development control and/or legal difficulties. Although these are not exhaustive of the factors that motivate and legitimate ministerial intervention, it is not a stretch to claim that shale gas operations could easily have come within the scope of the criteria in their original form.[94] So there was clearly a perceived need to signal that planning decisions regarding shale gas projects were exceptional, even more so than other called-in applications and recovered appeals – which, given their generally low incidence, were themselves an exceptional feature of the normal planning process. The singling out of shale gas projects made them doubly aberrant, *doubly exceptional*, and as an expression of the potency and reach of the

Secretary of State's jurisdiction, this instituted a particular relation to the future – one organised around the temporal logics of emergency.

A range of work in critical geography, political theory and related fields has charted the role of emergency as an indispensable technique of governance in contemporary liberal democratic states.[95] One reason the notion of governing through emergency holds appeal is that it offers an alternative to accounts of the future as an abstract, other or even absent time. This is especially pertinent in the context of land use planning, where the future is encountered in innumerable ways and does not comfortably fit narratives of a future 'out there', waiting to be measured, commodified, inhabited. Emergencies scholarship looks instead at how the future is already emergent in the present, full of tendencies and just-forming potential, building affective registers or 'atmospheres'[96] that induce or compel action in the current moment. In this light, emergency does not denote a single temporal sequence, rather it depends on the co-existence of multiple temporalities through which the future is disclosed and related to.

Exceptionality is one such temporality, which works by diagnosing events as rare, time-limited, atypical and therefore in need of some sort of extraordinary governance response. As Ben Anderson and colleagues have comprehensively shown, the 'state of exception' has become so frequently invoked that it is often not exceptional at all, and yet it remains an insistent force in the expression, exercise and legitimation of political and legal authority.[97] In part that force stems from the idea that without intervention the future might be otherwise, but it can be further intensified by a sense of urgency that necessitates action now. Together the temporalities of exceptionality and urgency are characterised by the presence of what Anderson describes as an 'on-rushing future'[98] and an imperative to act quickly, creating the conditions for 'lightning strikes'[99] of state power. They are inseparable from a temporality of hope that the future is alterable, and that 'though the outcome of an event of situation is uncertain, correct action may make a difference, and that which is threatened might be averted'.[100] These insights offer a different take on styles of governing, in that they capture how particular futures and futural dispositions – not just scales and spatialities – become folded into claims of jurisdiction.

This provides a basis for revisiting the example of the Secretary of State's powers of call-in and recovery – as a way of exemplifying the broader contention that there is scope for planning law to feature more centrally in efforts to understand the future as an integral, rather than an additional, part of any analysis of power. Indeed the re-assertion of the

Secretary of State's jurisdiction in respect of shale gas operations could be read as contributing to the performative constitution and experience of the future – or rather of multiple, disparate (urgent, exceptional, hopeful) futures, 'held together'[101] by their not-yet-ness and given real-time purpose by becoming the locus of debate.[102] The prefix 're' (re-assertion of jurisdiction) is intentional, to remind that planning legislation already conferred on the Secretary of State very wide discretionary powers of intervention, wide enough to cover shale gas operations – not just in principle but also in practice. Hence the simple bureaucratic act of extending the call-in and recovery criteria explicitly to include shale gas operations offered a means through which ministerial power could be symbolically re-affirmed. Thereafter, the debate became not about whether, but about when and under what circumstances shale gas exploration would be approved.[103] The fact that the shale gas industry did not, in the end, develop as the UK Government had planned is of little consequence. It does not alter the fact that, whether or not anticipated futures materialise, their effects can still be felt in the present.[104]

The suggestion here is that greater scrutiny of the involvement of distinctively legal mechanisms (jurisdiction being a classic example) in engagements with the future may open up some promising lines of inquiry into the forms of authority and legality that follow from invoking specific future-orientations. The 'double exceptionality' of shale gas projects, for instance, is justified on the basis of emergency claims that time for action is running out, through what Adi Ophir calls 'discursive means of catastrophization' which work to 'designate objects to be observed, described, measured and analysed, predicted and interfered with'.[105] These discursive processes construct the future, an imminently catastrophic or threatening future, as the thing to be governed, but more than that they provide powerful narratives and rhetorical devices that 'tacitly authorize those in power to respond'.[106] In this context, the thing to be governed is the 'underperforming' LPA that is perceived to be too slow in deciding shale gas applications,[107] and so ministerial intervention is seen as a necessary means of averting threats of national energy insecurity, missed economic opportunity and so on. But the earmarking of shale gas projects as not just a legitimate but also as a necessary target for the Secretary of State's exercise of her statutory powers helps to create the conditions in which particular future-orientations (exceptionality, urgency, hope) take hold, becoming institutionally stabilised and publicly performed.[108]

One way of taking this further might be to examine the future-making effects of the Secretary of State's jurisdiction on decision-making

in the local planning regime, before the powers of call-in and recovery have even been exercised. The question this raises, which can be addressed empirically, is whether and in what ways the potential for ministerial intervention influences how an LPA determines a planning application, or how PINS determines an appeal. It is clear that the Government's policy on shale gas, expressed in the same Written Statement that amended the criteria for calling-in applications and recovering appeals, is capable of being a material consideration when deciding permission.[109] Less clear are the more subtle ways in which the *prospect* of call-in or recovery might shape how local planning decisions are taken, as suggested also in Chapter 2. These effects are more likely to be missed when the powers of call-in and recovery are addressed as issues of jurisdictional scale. The trouble with conventional scalar analysis, Mariana Valverde has observed,[110] is that it is underpinned by a zero-sum understanding of jurisdiction, which in this context means that *either* the Secretary of State has jurisdiction *or* the LPA does. But the realities of governance are not so clear-cut, as is also apparent from Lee's chapter below. Central and local government may often be in tension or conflict but they are not opposites – their functions and powers can combine, overlap and interact in various ways. Thus there may be value in examining the consequences of the Secretary of State's powers of call-in and recovery for local planning, specifically when those powers are not exercised but are anticipated, preempted and experienced as 'looming or pressing in'.[111] It suggests at least that the Secretary of State's jurisdiction can also be studied as a temporal realm of expectation and imminence.

Concluding remarks

The purpose here has been to think about the sorts of questions and areas of investigation that may be opened up by approaching the analysis of planning law from a futures perspective. Too often the future is treated as an incidental aspect of law, as a backdrop against which legal rules and processes play out. Yet there is work to be done to understand the many ways in which law actively engages, and oftentimes *produces*, various expectations, promises and fears about what will come. By making futures an explicit focus of attention, it becomes possible to trace the different roles of planning law in drawing the future into the present, whether through practices of seeing and knowing (for example assessing costs and benefits), evidential thresholds (for example 'significantly and demonstrably outweigh'), ideational frames (for example

sustainable development), material trajectories (for example the presumption in favour of development), affective experiences (for example urgency, hope), or some other future-oriented modality. The reason for using a futurescapes approach in this context is that it nudges us away from any idea that the relationship between planning law and the future is a straightforward one. Indeed, the '-scape' element gets at the multilayered complexity of future-making, which is as evident in law as it is in other socio-political domains – the difference being that mainstream legal research on futures is limited and sporadic.

My aim in not only highlighting but also pulling together these various strands is to encourage a move away from the definitional question 'what or when is the future?' and to focus instead on how the future – as a logic, a reason, an orientation, an affect – is made effective and authoritative through specific legal means. In this respect, the discussion of planning law provisions applicable to shale gas operations suggests that it may be just as important to look at the routine or less obviously futural aspects of legal practice as it is to consider the headline acts. For example, there is nothing self-evident about the relevance of non-specific policies of a development plan to a proposed fracking site. As a matter of planning judgment it entails a degree of temporal organisation, to establish whether the new development falls within the remit of the plan, and this determines how the future is related to – as a continuity of experience or sharp rupture with the past-present, for instance. Similarly, shale gas-specific amendments to the criteria for calling-in applications and recovering appeals involve contestable future claims. The point, however, is not to suggest that characterisations of shale gas projects as exceptional, urgent and hopeful are necessarily a distortion of reality. It is to show that those characterisations also carry out some of the jurisdictional work of 'bringing' shale gas projects 'to law',[112] by framing such development as not just amenable to ministerial intervention but in need of it. These are among planning law's unmarked practices of future-making.

Notes

* I am very grateful for the help and encouragement of Barbara Adam and Antonia Layard.

1. Abram and Weszkalnys 2011, 3. See also e.g. Abram 2014; Zhang 2018; Windemer 2019.
2. Healey 2010, 19.
3. Throgmorton 1992, 17.
4. Davis and Groves 2019.
5. Byrne 2003, 174.
6. Rydin 2011, 9.
7. Adam and Groves 2007. See also e.g. Massumi 2015; Adams, Murphy and Clarke 2009; Anderson 2017.
8. Selin 2008; Coleman 2017.

9. See e.g. Appadurai 2013; Pels 2015; Bryant and Knight 2019; Valentine and Hassoun 2019. For an early, influential call for more focused attention on the future in cultural anthropology, see Munn 1992, esp. 112–16.
10. See e.g. Anderson 2010; Jeffrey and Dyson 2021.
11. See e.g. Davis 2019.
12. Wilkie, Savransky and Rosengarten 2019.
13. Jasanoff and Kim 2015.
14. Adams, Murphy and Clarke 2009, 248.
15. Posner 2000, 573.
16. Greenhouse 1989, 1640.
17. On the descriptive inaccuracies of the 'law lag', for example, see Jasanoff 2007.
18. For critique see Wistrich 2012.
19. For the same observation in anthropology see Munn 1992.
20. Standout examples include Greenhouse 1989; Mawani 2014; Valverde 2015; Grabham 2016; Johns 2016; Corrias and Francot 2018; Beynon-Jones and Grabham 2019; Hilson 2019; Keenan 2019; Chowdhury 2020. This list is by no means exhaustive but it gives a flavour of the rich writing on the topic.
21. See especially Valverde 2015.
22. Khan 2017.
23. See especially Mawani 2014; Valverde 2015; Grabham 2016.
24. Grabham 2010.
25. Riles 2011.
26. Mawani 2014.
27. Keenan 2016; Keenan 2019.
28. Cooper 2020.
29. Boukalas 2021.
30. Munn 1992, 116.
31. Pickering 2004.
32. Husserl 1983; Tavory and Eliasoph 2013.
33. Chakrabarty 2000, 250.
34. Munn 1992, 115.
35. The phrase is borrowed from Massey 1994, 4.
36. Adam 1995, 12.
37. Adam 1998.
38. Adam 2008.
39. See also Massey 2005; Valverde 2015.
40. Adam 1998, 54.
41. Adam 2006.
42. The phrase is borrowed from Graham 2010, 10.
43. Anderson et al 2020, 631.
44. For inspiration in a different context see McLeod 2017, 13.
45. See e.g. Rindova and Martins 2021.
46. See, however, note 20 above.
47. See e.g. Abram and Weszkalnys 2011; Abram 2014; Zhang 2018; Davis 2019; Davis and Groves 2019; Windemer 2019.
48. McAuslan 1980, 1.
49. Riles 2005.
50. See also Valverde 2009.
51. Janda and Topouzi 2015, 517.
52. Davey 2013.
53. Committee on Climate Change 2016.
54. Department for Business, Energy and Industrial Strategy (DBEIS) 2019.
55. Parliamentary Office of Science and Technology 2011.
56. Szolucha 2018.
57. Hilson 2015.
58. Valverde 2012, 12.
59. Town and Country Planning Act (TCPA) 1990, section 57.
60. Planning and Compulsory Purchase Act (PCPA) 2004, section 38(6); see also TCPA 1990, section 70(2).

61. PCPA 2004, section 19(1B)–(1C).
62. NPPF 2021, [20].
63. Department for Communities and Local Government (DCLG) 2012, [14].
64. Ministry of Housing, Communities and Local Government (MHCLG) 2021, [11(d)].
65. MHCLG 2021, [11(d)].
66. *Paul Newman New Homes Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 15, Andrews LJ, [37]–[40]. In *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2017] UKSC 37; [2017] 1 WLR 1865 the Supreme Court also clarified that even if the relevant policies are out-of-date, they may still be relevant as a matter of planning judgment.
67. DCLG 2016, [24].
68. *Peel Investments (North) Ltd v Secretary of State for Housing, Communities and Local Government* [2020] EWCA Civ 1175; [2021] 2 All ER 581, Baker LJ, [68].
69. Valverde 2007, 83.
70. Moore 2008.
71. Marston, Jones and Woodward 2005, 420.
72. See e.g. Davis and Groves 2019.
73. Davis 2019, 878.
74. PCPA 2004, section 27.
75. Town and Country Planning (Development Management Procedure) (England) (Order) 2015, regulation 31(1).
76. Planning Act 2008, section 35.
77. Planning Act 2008, section 41.
78. See e.g. House of Commons Library 2016.
79. Moore 1997, 10; Mark Tewdar-Jones 1999, 244.
80. TCPA 1990, section 77.
81. TCPA 1990, section 79.
82. See e.g. Planning Inspectorate (PINS) 2021–2.
83. For instance, the number of called-in applications reached 34 in April–June 2021 (provisional data at time of writing), and the number of recovered appeals peaked in 2013/14 at 163 applications. To put that into context, PINS made 16,980 appeal decisions between May 2020 and May 2021. See PINS 2021.
84. See e.g. Cowell and Devine-Wright 2018, 510.
85. See e.g. Wilding 2019.
86. See e.g. Willmore 2017.
87. Barker 2006, [3.41] and [3.55].
88. Ferguson and Gupta 2002, 983.
89. See e.g. Brenner 2001; Ferguson and Gupta 2002; Swyngedouw and Heynen 2003; Moore 2008; Valverde 2009; MacLeavy and Harrison 2010; MacKinnon 2011; Bennett and Layard 2015.
90. Khan 2017, 6.
91. See especially Kaushal 2015.
92. See Hansard 2015.
93. Rudd 2015.
94. In fact, the Secretary of State in recovering an appeal on shale gas exploration has previously justified the recovery of jurisdiction on the basis of the 'more than local significance' criterion, not the criterion specific to shale gas. See DCLG 2016, [2].
95. See e.g. Hussain 2003; Aradau and van Munster 2011; Adey, Anderson and Graham 2015; Massumi 2015; Anderson 2017.
96. McCormack 2015.
97. Anderson et al 2020.
98. Anderson 2017, 470.
99. Massumi 2015.
100. Anderson 2017, 470–1.
101. Brown et al 2012.
102. Weszkalnys 2014.
103. Stokes 2016.
104. Adams, Murphy and Clarke 2009.
105. Ophir 2010.

106. Vázquez-Arroyo 2013, 742.
107. Hansard 2015.
108. Jasanoff 2015, 4.
109. See e.g. DCLG 2016, [28].
110. Valverde 2009; Valverde 2021. See also Blomley 2016.
111. Bryant 2020, 21.
112. The phrasing here is adapted from Dorsett and McVeigh 2012, particularly chapter 6.

References

Abram, Simone (2014). 'The Time it Takes: Temporalities of Planning', *Journal of the Royal Anthropological Institute* 20: 129–47.

Abram, Simone and Gisa Weszkalnys (2011). 'Anthropologies of Planning – Temporality, Imagination, and Ethnography', *Focaal – Journal of Global and Historical Anthropology* 61: 3–18.

Adam, Barbara (1995). *Timewatch: The Social Analysis of Time*. Cambridge: Polity Press.

Adam, Barbara (1998). *Timescapes of Modernity: The Environment and Invisible Hazards*. Abingdon: Routledge.

Adam, Barbara (2006). 'Futurescapes: Challenge for Social and Management Sciences'. Retroscapes and Futurescapes – Temporal Tensions in Organizations International Conference, Palazzo d'Aumale, Terrasini, 21–23 June.

Adam, Barbara (2008). 'Of Timescapes, Futurescapes and Timeprints'. Lüneburg University, 17 June.

Adam, Barbara and Chris Groves (2007). *Future Matters: Action, Knowledge, Ethics*. Leiden: Brill.

Adams, Vincanne and Michelle Murphy and Adele E. Clarke (2009). 'Anticipation: Technoscience, Life, Affect, Temporality', *Subjectivity* 28: 246–65.

Adey, Peter, Ben Anderson and Stephen Graham (2015). 'Governing Emergencies: Beyond Exceptionality', *Theory, Culture and Society* 32: 3–17.

Anderson, Ben (2010). 'Preemption, Precaution, Preparedness: Anticipatory Action and Future Geography', *Progress in Human Geography* 34: 777–98.

Anderson, Ben (2017). 'Emergency Futures: Exception, Urgency, Interval, Hope', *The Sociological Review* 65: 463–77.

Anderson, Ben et al (2020). 'Slow Emergencies: Temporality and the Racialized Biopolitics of Emergency Governance', *Progress in Human Geography* 44(4): 621–39.

Appadurai, Arjun (2013). *The Future as Cultural Fact: Essays on the Global Condition*. London: Verso.

Aradau, Claudia and Rens van Munster (2011). *Politics of Catastrophe: Genealogies of the Unknown*. Abingdon: Routledge.

Barker, Kate (2006). *Barker Review of Land Use Planning. Final Report – Recommendations*. London: HMSO.

Bennett, Luke and Antonia Layard (2015). 'Legal Geography: Becoming Spatial Detectives', *Geography Compass* 9: 406–22.

Beynon-Jones, Siân and Emily Grabham (eds) (2019). *Law and Time*. Abingdon: Routledge.

Blomley, Nicholas (2016). 'What Sort of a Legal Space is a City?'. In *Urban Interstices: The Aesthetics and the Politics of the In-Between*, edited by Andrea Mubi Brighenti, 1–20. Abingdon: Routledge.

Boukalas, Christos (2021). 'No Future: Pre-emption, Temporal Sovereignty and Hegemonic Implosion', *Constellations* 28: 252–68.

Brenner, Neil (2001). 'The Limits to Scale? Methodological Reflections on Scalar Structuration', *Progress in Human Geography* 25: 591–614.

Brown, Gavin et al (2012). 'Holding the Future Together: Towards a Theorisation of the Spaces and Times of Transition', *Environment and Planning A* 44: 1607–23.

Bryant, Rebecca (2020). 'The Anthropology of the Future', *Etnofoor* 32: 11–22.

Bryant, Rebecca and Daniel M. Knight (2019). *The Anthropology of the Future*. Cambridge: Cambridge University Press.

Byrne, David (2003). 'Complexity Theory and Planning Theory: A Necessary Encounter', *Planning Theory* 2: 171–8.

Chakrabarty, Dipesh (2000). *Provincializing Europe: Postcolonial Thought and Historical Difference*. Princeton, NJ: Princeton University Press.

Chowdhury, Tanzil (2020). *Time, Temporality and Legal Judgment*. Abingdon: Routledge.
Coleman, Rebecca (2017). 'A Sensory Sociology of the Future: Affect, Hope and Inventive Methodologies', *The Sociological Review* 65: 525–43.
Committee on Climate Change (2016). *Onshore Petroleum: The Comparability of UK Onshore Petroleum with Meeting the UK's Carbon Budgets*.
Cooper, Davina (2020). 'Towards an Adventurous Institutional Politics: The Prefigurative "As If" and the Reposing of What's Real', *Sociological Review* 68: 893–916.
Corrias, Luigi and Lyana Francot (eds) (2018). *Temporal Boundaries of Law and Politics: Time Out of Joint*. Abingdon: Routledge.
Cowell, Richard and Patrick Devine-Wright (2018). 'A "Delivery-Democracy Dilemma"? Mapping and Explaining Policy Change for Public Engagement with Energy Infrastructure', *Journal of Environmental Policy and Planning* 20: 499–517.
Davey, Ed (2013). 'Speech: The Myths and Realities of Shale Gas Exploration'. The Royal Society, London.
Davis, Juliet (2019). 'Futurescapes of Urban Regeneration: Ten Years of Design for the Unfolding Urban Legacy of London's Olympic Games, 2008–2018', *Planning Perspectives* 34: 877–901.
Davis, Juliet and Chris Groves (2019). 'City/Future in the Making: Masterplanning London's Olympic Legacy as Anticipatory Assemblage', *Futures* 109: 13–23.
Department for Business, Energy and Industrial Strategy (n.d.). Guidance on Fracking: Developing Shale Gas in the UK, available at https://www.gov.uk/government/publications/about-shale-gas-and-hydraulic-fracturing-fracking/developing-shale-oil-and-gas-in-the-uk (accessed 12 June 2022).
Department for Communities and Local Government (2012). *National Planning Policy Framework*.
Department for Communities and Local Government (2016). Recovered Appeals: Cuadrilla Bowland Ltd and Cuadrilla Elswick Ltd, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778144/16-10-06_DL_Cuadrilla.pdf (accessed 12 June 2022).
Dorsett, Shaunnagh and Shaun McVeigh (2012). *Jurisdiction*. Abingdon: Routledge.
Ferguson, James and Akhil Gupta (2002), 'Spatializing States: Toward an Ethnography of Neoliberal Governmentality', *American Ethnologist* 29: 981–1002.
Grabham, Emily (2010). 'Governing Permanence: Trans Subjects, Time, and the Gender Recognition Act', *Social and Legal Studies* 19: 107–26.
Grabham, Emily (2016). *Brewing Legal Times: Things, Forms, and the Enactments of Law*. Toronto: University of Toronto Press.
Graham, Stephen (2010). 'When Infrastructures Fail'. In *Disrupted Cities: When Infrastructure Fails*, edited by Stephen Graham, 1–26. New York: Routledge.
Greenhouse, Carol J. (1989). 'Just in Time: Temporality and the Cultural Legitimation of Law', *Yale Law Journal* 98: 1631–51.
Hansard (2015), House of Commons Debates, 16 September, vol 599 c32WS.
Haughton, Graham and Phil Allmendinger (2013). 'Spatial Planning and the New Localism', *Planning Practice and Research* 28: 1–5.
Healey, Patsy (2010). *Making Better Places: The Planning Project in the Twenty-First Century*. London: Red Globe Press.
Hilson, Chris (2015). 'Framing Fracking: Which Frames Are Heard in English Planning and Environmental Policy and Practice?', *Journal of Environmental Law* 27: 177–202.
Hilson, Chris (2019). 'Framing Time in Climate Change Litigation', *Oñati Socio-Legal Series* 9, 361–79.
House of Commons Library (2016). *Comparison of the Planning Systems in the Four UK Countries*.
Hussain, Nasser (2003). *The Jurisprudence of Emergency: Colonialism and the Rule of Law*. Ann Arbor, MI: University of Michigan Press.
Husserl, Edmund (1983). *Ideas Pertaining to a Pure Phenomenology and to a Phenomenological Philosophy*. Translated by F. Kersten. The Hague: Martinus Nijhoff.
Janda, Kathryn B. and Marina Topouzi (2015). 'Telling Tales: Using Stories to Remake Energy Policy', *Building Research and Information* 43: 516–33.
Jasanoff, Sheila (2007). 'Making Order: Law and Science in Action'. In *Handbook of Science and Technology Studies*, edited by Edward J. Hackett et al, 761–86. Cambridge, MA: MIT Press, 3rd edn.
Jasanoff, Sheila (2015). 'Future Imperfect: Science, Technology, and the Imaginations of Modernity'. In *Dreamscapes of Modernity: Sociotechnical Imaginaries and the Fabrication of Power*, edited by Sheila Jasanoff and Sang-Hyun Kim, 1–33. Chicago, IL: University of Chicago Press.

Jasanoff, Sheila and Sang-Hyun Kim (eds) (2015). *Dreamscapes of Modernity: Sociotechnical Imaginaries and the Fabrication of Power*. Chicago, IL: University of Chicago Press.
Jeffrey, Craig and Jane Dyson (2021), 'Geographies of the Future: Prefigurative Politics', *Progress in Human Geography* 45: 641–58.
Johns, Fleur (2016). 'The Temporal Rivalries of Human Rights', *Indiana Journal of Global Legal Studies* 23: 39–60.
Kaushal, Asha (2015). 'The Politics of Jurisdiction', *Modern Law Review* 78: 759–92.
Keenan, Sarah (2016). 'Smoke, Curtains and Mirrors: The Production of Race Through Time and Title Registration', *Law and Critique* 28: 87–108.
Keenan, Sarah (2019). 'From Historical Chains to Derivative Futures: Title Registries as Time Machines', *Social and Cultural Geography* 20: 283–303.
Khan, Jeffrey S. (2017). 'Geographies of Discretion and the Jurisdictional Imagination', *Political and Legal Anthropology* 40: 5–27.
MacKinnon, Danny (2011). 'Reconstructing Scale: Towards a New Scalar Politics', *Progress in Human Geography* 35: 21–36.
MacLeavy, Julie and John Harrison (2010). 'New State Spatialities: Perspectives on State, Space, and Scalar Geographies', *Antipode* 42: 1–11.
McAuslan, Patrick (1980). *The Ideologies of Planning Law*. Oxford: Pergamon Press.
McCormack, Derek (2015). 'Governing Inflation: Price and Atmospheres of Emergency', *Theory, Culture and Society* 32: 1–24.
McLeod, Julie (2017). 'Marking Time, Making Methods: Temporality and Untimely Dilemmas in the Sociology of Youth and Educational Change', *British Journal of Sociology of Education* 38: 13–25.
Marston, Sallie A., John Paul Jones III and Keith Woodward (2005). 'Human Geography without Scale', *Transactions of the Institute of British Geographers* 30: 416–32.
Massey, Doreen (1994). *Space, Place and Gender*. Cambridge: Polity Press.
Massey, Doreen (2005). *For Space*. London: Sage.
Massumi, Brian (2015). *Ontopower: War, Powers, and the State of Perception*. Durham, NC: Duke University Press.
Mawani, Renisa (2014). 'Law as Temporality: Colonial Politics and Indian Settlers', *UC Irvine Law Review* 4: 65–95.
Ministry of Housing, Communities and Local Government (2021). *National Planning Policy Framework*.
Moore, Adam (2008). 'Rethinking Scale as a Geographical Category: From Analysis to Practice', *Progress in Human Geography* 32: 203–25.
Moore, Victor (1997). *A Practical Approach to Planning Law*. Oxford: Blackstone, 6th edn.
Munn, Nancy D. (1992). 'The Cultural Anthropology of Time: A Critical Essay', *Annual Review of Anthropology* 21: 93–123.
Ophir, Adi (2010). 'The Politics of Catastrophization: Emergency and Exception'. In *Contemporary States of Emergency: The Politics of Military and Humanitarian Interventions*, edited by Didier Fassin and Mariella Pandolfi, 59–88. New York: Zone Books.
Parliamentary Office of Science and Technology (2011). *Unconventional Gas*. PostNote Number 374 April.
Pels, Peter (2015). 'Modern Times: Seven Steps toward an Anthropology of the Future', *Current Anthropology* 56: 779–96.
Pickering, Michael (2004). 'Experience as Horizon: Koselleck, Expectation and Historical Time', *Cultural Studies* 18: 271–89.
Planning Inspectorate (2021–2). *Quarterly and Annual Volume Statistics Q1 2021 to 2022*, available at https://www.gov.uk/government/statistics/planning-inspectorate-statistics (accessed 12 June 2022).
Posner, Richard A. (2000). 'Past-Dependency, Pragmatism, and Critique of History in Adjudication and Legal Scholarship', *University of Chicago Law Review* 67: 573–606.
Riles, Annelise (2005). 'A New Agenda for the Cultural Study of Law: Taking on the Technicalities', *Buffalo Law Review* 53: 973–1033.
Riles, Annelise (2011). *Collateral Knowledge: Legal Reasoning in the Global Financial Markets*. Chicago, IL: University of Chicago Press, chapter 4.
Rindova, Violina P. and Luis L. Martins (2021). 'Futurescapes: Imagination and Temporal Reorganization in the Design of Strategic Narratives', *Strategic Organization*: 1–25.

Rudd, Amber (2015). Shale Gas and Oil: Policy Statement of the Secretary of State for Energy and Climate Change, 16 September.
Rydin, Yvonne (2011). *The Purpose of Planning: Creating Sustainable Towns and Cities*. Bristol: Policy Press.
Selin, Cynthia (2008). 'The Sociology of the Future: Tracing Stories of Technology and Time', *Sociology Compass* 2: 1878–95.
Stokes, Elen (2016). 'Regulatory Domain and Regulatory Dexterity: Critiquing the UK Governance of "Fracking"', *Modern Law Review* 79: 961–86.
Swyngedouw, Erik and Nikolas C. Heynen (2003). 'Urban Political Ecology, Justice and the Politics of Scale', *Antipode* 35: 898–918.
Szolucha, Anna (2018). 'Anticipating Fracking: Shale Gas Developments and the Politics of Time in Lancashire, UK', *The Extractive Industries and Society* 5: 348–55.
Tavory, Iddo and Nina Eliasoph (2013). 'Coordinating Futures: Toward a Theory of Anticipation', *American Journal of Sociology* 118: 908–42.
Tewdwr-Jones, Mark (1999). 'Discretion, Flexibility and Certainty in British Planning: Emerging Ideological Conflicts and Inherent Political Tensions', *Journal of Planning Education and Research* 18: 244–56.
Throgmorton, James A (1992). 'Planning as Persuasive Storytelling About the Future: Negotiating an Electric Power Rate Settlement in Illinois', *Journal of Planning Education and Research*: 17–31.
Valentine, David and Amelia Hassoun (2019). 'Uncommon Futures', *Annual Review of Anthropology* 48: 243–60.
Valverde, Mariana (2007). 'Theoretical and Methodological Issues in the Study of Legal Knowledge Practices'. In *How Law Knows*, edited by Austin Sarat, Lawrence Douglas and Martha Merrill Umphrey, 72–92. Stanford, CA: Stanford University Press.
Valverde, Mariana (2009). 'Jurisdiction and Scale: Legal "Technicalities" as Resources for Theory', *Social and Legal Studies* 18: 139–57.
Valverde, Mariana (2012). *Everyday Law on the Street: City Governance in an Age of Diversity*. Chicago, IL: University of Chicago Press.
Valverde, Mariana (2015). *Chronotopes of Law: Jurisdiction, Scale and Governance*. Abingdon: Routledge.
Valverde, Mariana (2021). 'Games of Jurisdiction: How Local Governance Realities Challenge the "Creatures of Province" Doctrine', *Journal of Law and Social Policy* 34: 21–38.
Vázquez-Arroyo, Antonio Y. (2013). 'How Not to Learn From Catastrophe: Habermas, Critical Theory and the "Catastrophization" of Political Life', *Political Theory* 41: 738–65.
Weszkalnys, Gisa (2014). 'Anticipating Oil: The Temporal Politics of a Disaster Yet to Come', *The Sociological Review* 62: 211–35.
Wilding, Mark (2019). 'Proportion of Permissions Following Secretary of State Intervention Drops Sharply Under Brokenshire', available at https://www.planningresource.co.uk/article/1589918/proportion-permissions-following-secretary-state-intervention-drops-sharply-brokenshire (accessed 12 June 2022).
Wilkie, Alex, Martin Savransky and Marsha Rosengarten (eds) (2019). *Speculative Research: The Lure of Possible Futures*. Abingdon: Routledge.
Willmore, Chris (2017). 'Planning Law Reform and reconceptualising the Regulation of Land Use'. In *Modern Studies in Property Law: Volume 9*, edited by Heather Conway and Robin Hickey, 257–75. Oxford: Hart Publishing.
Windemer, Rebecca (2019). 'Considering Time in Land Use Planning: An Assessment of End-of-Life Decision Making for Commercially Managed Onshore Wind Schemes', *Land Use Policy* 87: 104024.
Wistrich, Andrew J. (2012). 'The Evolving Temporality of Lawmaking', *Connecticut Law Review* 44: 737–826.
Zhang, Amy Y. (2018). 'Thinking Temporally When Thinking Relationally: Temporality in Relational Place-Making', *Geoforum* 90: 91–9.